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AUTHOR	Hill, Paul T.: Rettig, Richard A.
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ABSTRACT

This report derives from a study of the implementation of civil rights guarantees by elementary, secondary, and higher education institutions. The study was commissioned by the Office of Civil Rights (OCR) with the objective of determining whether the OCR should more closely monitor and enforce compliance with Federal regulations concerning the rights of women, minorities, and the handicapped, or whether these regulations are being adequately addressed through local administration of compliance mechanisms. Under Federal law, local institutions are required to (1) file formal assurance of compliance with guarantees established in Title IX of the Educational Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973, (2) conduct a self evaluation of their practices in dealing with the rights of women and the handicapped, (3) appoint a compliance coordinator, and (4) establish formal grievance procedures. Based on case studies of twelve local education agencies and twelve institutions of higher education throughout the country, it was found that (1) nearly all the institutions had implemented the required mechanisms, though few people apart from managerial personnel knew that they existed, and (2) the four mechanisms contribute to the change process, but the most important changes are initiated by institutional leaders or employees. Of the four mechanisms, assurance of compliance was found to be the least effective. Recommendations are offered for improving its usefulness. (Author/GC)

MECHANISMS FOR THE IMPLEMENTATION OF CIVIL RIGHTS GUARANTEES BY EDUCATIONAL INSTITUTIONS

PREPARED FOR THE OFFICE OF EDUCATION, U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PAUL T. HILL, RICHARD A. RETTIG
WITH THE ASSISTANCE OF EVELYN DAVILA, MEG GWALTNEY, KAREN HEALD, PATRICIA KOSHEL, MARY VOGEL

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Rand
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PREFACE

This report derives from a study of the implementation of civil rights guarantees by institutions of elementary, secondary, and higher education. The study was conducted as part of the research program of Rand's Center for Research on Education Finance and Governance, under a contract with the Office of the Assistant Secretary for Education, Department of Health, Education, and Welfare.

The impetus for the study originated with two officials of HEW's Office for Civil Rights, Andrew Fishel and Janice Pottker. They were interested in developing strategies to encourage and facilitate locally initiated changes on behalf of the groups that are protected by civil rights guarantees. They established the study's immediate objective, which was to evaluate four mechanisms (assurance of compliance, self-evaluation, a compliance coordinator, and a grievance process), which local institutions are required to use in responding to the laws that guarantee the rights of women and handicapped people. Fishel and Pottker also contributed to our formulation of the study's ultimate purpose, which was to help HEW understand the relative contributions that locally administered mechanisms and federal enforcement action can make toward the full implementation of civil rights guarantees.

Mary Moore of the Office of the Deputy Assistant Secretary for Education for Policy Development contributed to the study's initial design and provided indispensable help and advice throughout the fieldwork and analysis. David Seidman and Nicelma King of Rand also provided comments that greatly improved the study.

Although the three government employees mentioned above participated closely in the study, they are in no way responsible for its conclusions or recommendations. This report is a result of the authors' research, and does not necessarily reflect the opinions or preferences of HEW or any of its offices.

SUMMARY

BACKGROUND

In the past fifteen years, Congress has enacted several laws that extend guarantees of nondiscrimination to racial and ethnic minorities, women, the handicapped, and the aged. To give those laws real force, Congress requires federal agencies to ensure that all recipients of federal grants are in full compliance with the civil rights requirements. Within the Department of Health, Education, and Welfare, the Office for Civil Rights (OCR) is responsible for promoting that compliance. Because of the nature of HEW's grants programs, educational institutions are the largest and most conspicuous class of institutions for which OCR is responsible.

In promoting civil rights compliance in educational institutions, OCR faces two problems that are common to many federal regulatory agencies. First, OCR must hold grantee institutions accountable for performance according to standards that are only vaguely defined. Although the law clearly prohibits discrimination, it provides no definite standards for identifying concrete instances of discrimination. The second problem is that the number of grantee agencies is too great to permit OCR to monitor and enforce compliance on a day-to-day basis. Educational institutions alone account for 20,000 grantees: 17,000 local education agencies (LEAs) and 3,000 institutions of higher education (IHEs). Within existing levels of federal staff and spending, OCR can hope at best to spot-check a few dozen such institutions each year.

Thus, OCR cannot exert detailed control over educational institutions' response to civil rights requirements. Whether those requirements have their intended effects depends primarily on the actions of local, not federal, officials.

In the past, OCR has viewed itself as an enforcement agency, and has dedicated the preponderance of its staff and financial resources to conducting compliance audits and complaint resolution. In recent years, however, the limitations of a strict enforcement approach have become apparent. Enforcement actions against educational institutions have proven to be very costly, and their effects on local policy are mixed. In addition, OCR staff is unable to handle its workload of complaints, and has had to reduce the level of its effort on compliance reviews. As a result, OCR has begun to ask whether it needs to change the relative emphasis between direct enforcement and complaint resolution versus local administration of compliance mechanisms.

To begin answering that question, OCR asked Rand to study the operation of four mechanisms that HEW requires local institutions to administer in complying with regulations concerning the rights of women and the handicapped. These guarantees are contained in Title IX of the Education Amendments of 1972 and Section 504 of the Rehabilitation Act of 1973. These mechanisms are meant to provide a framework for institutional change that will eliminate discriminatory practices and the attitudes that support them. The institutions must:

1. File formal assurance of compliance with the guarantees established in Title IX and Section 504;

2. Conduct a self-evaluation of their practices in dealing with the rights of women and the handicapped;
3. Appoint an official to coordinate their efforts to comply with each of the civil rights requirements; and
4. Establish a formal grievance procedure through which individuals can claim denial of their rights by the local institution.

STUDY OBJECTIVES AND PROCEDURES

Despite the potential importance of these four requirements, they have been virtually ignored by HEW civil rights officials. HEW has come to recognize the limits of its capacity to force local educational institutions into compliance; the need for federal policy to rely more explicitly on local change processes has therefore become increasingly apparent.

No good evidence exists on how the mechanisms have been implemented in the local institutions, or on whether they have contributed to changes in the institutions' civil rights policies. Consequently, the immediate objective of the study is to answer three questions:

1. How are the required mechanisms being implemented?
2. How widely known are the mechanisms among faculty, staff, students, parents, and interest groups representing the intended beneficiaries of civil rights guarantees?
3. How have the mechanisms been used to change local policies and practices, either by the educational institutions themselves or by interested individuals or groups?

Answers to these descriptive questions provide the grounds on which to address the study's ultimate purpose, which is to help HEW understand the relative effectiveness of locally administered mechanisms and of federal enforcement actions in promoting full implementation of the civil rights guarantees.

RESEARCH METHODS

The principal sources of data for this research were case studies conducted in 12 LEAs and 12 IHEs. LEAs in five states were selected to represent different regions of the country, and to provide variations among the two dimensions of school district population and the level of previous civil rights activity. Student enrollment ranged from 750 in the smallest district to over 84,000 in the largest.

The IHEs were also selected to represent the different regions of the country. They included eight public and four private institutions. Nine had both four-year undergraduate and graduate programs, one had only a four-year undergraduate program, and two were two-year community colleges. Four IHEs—three public and one private—are prominent in intercollegiate football. The smallest institution had 1,300 students; several of the larger ones had more than 30,000.

Site visits were conducted in late 1978 and early 1979. Members of Rand's Washington Office staff spent between two and seven person-days at each site,

interviewing top university officials, department heads, representatives of employee organizations, local civil rights activists, representatives of women's and handicapped advocacy groups, compliance coordinators, and persons who participated in self-evaluation or used the grievance procedure.

Interviews were based on field guides that outlined the basic lines of questioning to be pursued at each site, but permitted flexibility in the selection of topics to be covered with each respondent. At the conclusion of the interviews at each site, field workers wrote summary case reports that formed the principal source of raw data for this report.

FINDINGS

Although the institutions varied in several important respects, the most important findings apply equally to LEAs and IHEs, and to institutions of different size. In general:

- Nearly all of the institutions had implemented the required mechanisms.
- Few people knew about the mechanisms. In most institutions, only managerial personnel (central administrative staff and academic department heads), and a few activist employees or students knew that the mechanisms existed.
- The four mechanisms are making modest contributions to the change process in many institutions; however, they are not the only, or even the primary, processes for locally initiated change. The most important changes are initiated by institutional leaders or employees who act in response to their own values or to their understanding of the law.

IHEs, particularly the larger ones, generally implement the mechanisms more thoroughly than do the LEAs. Among LEAs, size is a very important factor. Smaller LEAs, which often employ only two or three full-time professionals for all administrative tasks, operate almost exclusively through informal processes. They implement the four mechanisms only to the extent required by law.

In LEAs, it was often hard to distinguish between activities responding to Section 504 and those required by P.L. 94-142, the Education for All Handicapped Children Act. The latter program provides extensive due process and service guarantees for handicapped children, and thus either duplicates or exceeds the requirements of Section 504. The level of locally initiated activity for the handicapped is relatively high, far higher than for women's rights, but it is unclear whether that level of activity should be attributed to Section 504 or to P.L. 94-142.

Findings about the four individual mechanisms can be summarized as follows:

- The *assurance of compliance* mechanism had little or no effect on the institutions' response to the civil rights laws. Assurances were required as soon as the regulations came into effect—long before the institutions had the opportunity to conduct a serious self-evaluation. Consequently, the assurances were regarded as "just something we have to sign to get federal money."
- *Self-Evaluation* provided an occasion for local officials to learn about the implications of the civil rights guarantees for their own institutions. When

the self-evaluation process included consultation with interested members of the public (as happened in about half the institutions), it gave civil rights advocates the opportunity to identify each other and form alliances. When the self-evaluation process led institutions to acknowledge the existence of problems or make public pledges of remedies (again, in about half the cases), the self-evaluation became a useful accountability device for civil rights beneficiaries and advocates.

- The *compliance coordinator* was, in many institutions, a major force for change in response to the civil rights laws. Coordinators operated in ways that reflected the institutional leadership's orientation to civil rights. Some were *advocates* who built coalitions of local civil rights supporters and provided leadership for change. Others were *administrators* who ensured the propriety of local processes, but neither pushed for substantive changes in policy nor encouraged others to do so. Others were *apologists* who operated to limit pressures on the institutional leadership by defending existing practices. The coordinator's orientation was the key to the success of the other mechanisms. The self-evaluation and grievance procedures were meaningful only in those institutions (about two-thirds of the total) that had compliance coordinators who were advocates or administrators.
- *Grievance procedures* were seldom used. Both institutional officials and potential grievants are reluctant to pay the costs in time and emotional stress associated with a formal adversary process. Both prefer to settle disputes informally. However, the formal grievance procedures serve an important function as a potential sanction against the mishandling of informal complaints. Aggrieved individuals and compliance coordinators who played the *advocate* and *administrator* roles were able to urge officials to accommodate a grievant's request rather than resist it and endure the formal process.

Based on these findings, the report concludes that three of the four mechanisms are now making positive contributions to the local change processes required by Title IX and Section 504, and that the fourth, the assurance of compliance, could be effective if it were redesigned. They can be effective, however, only if the heads of the educational institutions exert some leadership on behalf of civil rights, and if federal enforcement activities are arranged to complement, not interfere with, local change processes.

The report concludes with several recommendations of ways to increase the mechanisms' contribution to local institutional change. The recommendations have a common theme: that local action is the key to the implementation of the civil rights guarantees. Federal actions can stimulate and complement, but never replace, local change processes.

Several of our recommendations identify ways in which the federal government can adjust its enforcement efforts to complement and enhance local change processes. One is to clarify the regulations that mandate the four mechanisms, and another is to alert the public to the opportunities for local accountability that the mechanisms provide.

CONTENTS

Chapter 1

INTRODUCTION

This report presents results of a study of the implementation of civil rights guarantees for women and handicapped persons in educational institutions.[1] It focuses on local education agencies (LEAs) and institutions of higher education (IHEs) that are subject to civil rights laws because they receive grants or contracts from the Department of Health, Education, and Welfare (HEW).

The study is motivated by concern for a problem confronting virtually all federal regulatory efforts: that federal officials cannot hope to observe or control all relevant activities. Educational institutions in particular are too numerous, and their activities are too complex, for direct federal control.[2] Whether civil rights requirements have the intended effects depends ultimately on the actions of local, not federal, officials. In recognition of that fact, HEW has tried to prescribe the processes by which local institutions are to respond to the civil rights laws. HEW regulations require each institution to take four actions: designate a compliance coordinator, complete an assurance of compliance, conduct a self-evaluation, and establish a grievance procedure.

The purpose of this study is to observe the ways in which those four mechanisms affect educational institutions' response to civil rights laws, and to suggest ways in which the federal government can promote compliance with such laws.

BACKGROUND

HEW is required by law to promote compliance with federal guarantees against discrimination on grounds of race, national origin, sex, and handicap by local agencies that receive HEW funds. Within HEW, responsibility for civil rights matters is assigned to the Office for Civil Rights (OCR), a staff unit in the Office of the Secretary. OCR writes and promulgates regulations, provides advice and technical assistance to local institutions, and employs field investigators who review and monitor local agency compliance.

Historically, OCR has regarded itself as an enforcement agency, and has allocated most of its resources to compliance monitoring.[3] OCR administers monitoring processes of three kinds: It conducts pre-grant reviews of institutions that have applied for federal funds for the first time, performs routine audits of local institutions' compliance with one or more civil rights guarantees, and investigates individuals' allegations that HEW grantees have deprived them of guaranteed rights. When OCR discovers violations of the civil rights laws through any of the methods, it can initiate fiscal sanctions against the agency concerned. OCR can either sus-

[1] These guarantees are contained in Title IX of the Education Amendments of 1972 (P.L. 92-318), and Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112).

[2] On the problems of controlling complex intergovernmental programs through regulation, see Landau and Stout (1979), Wilson and Rachal (1977), Williams and Elmore (1976), Elmore (1978), Williams (1979), Ingram (1977), and Rogers and Bullock (1976).

[3] For a history of OCR, see Roden (1977).

pend federal grants through administrative action within HEW, or refer cases to the Justice Department for prosecution. Though it seldom imposes fiscal penalties, OCR is frequently able to use the threat of doing so to lever changes in local agency policy.

OCR's workload has increased as the coverage of civil rights guarantees has expanded. The burden of complaint resolution has become particularly heavy. OCR expects to receive nearly 6,000 complaints during FY 1979. To comply with the requirements of the order issued by the Federal District Court for the District of Columbia in the case of *Adams v. Califano*,[4] OCR must resolve every complaint it receives within 180 days. As a result, at existing levels of staffing, OCR will barely be able to handle the volume of complaints, and cannot hope to increase the number of general compliance reviews it conducts.[5] OCR requirements cover approximately 17,000 LEAs and 3,000 IHEs. At present levels of staffing, far less than one percent of the institutions can be reviewed in any given year.

OCR's own capacity to initiate action on behalf of the beneficiaries of civil rights guarantees is thus severely limited. Its compliance monitoring and complaint resolution cannot ensure that the civil rights guarantees are strictly observed. Full compliance with the civil rights laws depends on the actions of local people—officials and employees of the institutions, beneficiary groups, and concerned individuals in the larger communities. Recognizing that, HEW has required local institutions to establish four administrative mechanisms that can, it is hoped, provide the framework for a process of social change. These mechanisms, which are meant to operate at the local level without federal scrutiny or intervention, require institutions to:

1. File formal assurance of compliance with the guarantees established in Title VI, Title IX, and Section 504;
2. Conduct a self-evaluation of their practices in dealing with the rights of women and the handicapped;
3. Appoint an official to coordinate their efforts to comply with each of the civil rights requirements; and
4. Establish a formal procedure through which individuals can claim denial of their rights by the local institutions.

These mechanisms are meant to formalize the processes that any serious response to the civil rights guarantees would require. OCR assumes that any agency faced with a new requirement must acknowledge the applicability of the requirement (assurance of compliance), review current practices in light of it (self-evaluation), assign responsibility for corrective action (compliance coordinator), and establish a method of dealing with unexpected problems as they arise (grievance procedure).

Despite their potential importance, little is known about the implementation or use of these mechanisms. OCR has relied almost exclusively on its own compliance reviews and complaint resolution processes, and has done little to facilitate the processes by which change occurs at the local level. However, as HEW has come to recognize the need for a broader strategy on behalf of civil rights, the importance of local change processes has become increasingly apparent.

[4] *Adams v. Califano*, 430 F. Supp. 118 (D.D.C., 1977).

[5] See DHEW, Office for Civil Rights, "Proposed Annual Operating Plan, Fiscal Year 1979," *Federal Register*, September 1, 1978, pp. 39262-39264.

STUDY OBJECTIVES

The immediate purpose of this study is to provide a preliminary analysis of the operation of the four mechanisms. Its ultimate purpose is to help HEW understand the relative effectiveness of locally administered mechanisms and of federal enforcement actions in promoting full implementation of the civil rights guarantees.

To serve those purposes, the research was organized around three questions:

1. How are the four mechanisms being implemented—i.e., what administration arrangements or procedures are established?
2. How widely known are the mechanisms among faculty, staff, students, parents, and interest groups representing the intended beneficiaries of civil rights guarantees?
3. How have the mechanisms been used, either by the educational institutions themselves or by interested individuals or groups, to change local policies and practices?

For the ultimate purposes of the study, two more questions are added:

4. How great a part have the four mechanisms played in changing the institutions' treatment of women and handicapped persons?
5. How have federal enforcement and technical assistance activities affected the operation of the four mechanisms in particular and local change processes in general?

It is important to note that the study is *not* intended to assess local institutions' compliance with all the provisions of the relevant civil rights laws.

RESEARCH METHODS

Our principal data sources were case studies conducted in 12 local education agencies (LEAs) and 12 institutions of higher education (IEHs). The LEAs were selected to represent different regions of the country, and to provide variations along two dimensions that we expected to affect the implementation of the four mechanisms. Those dimensions were school district population (as a proxy for the size and specialization of the LEA central office staff) and the level of previous civil rights activity.

Final selection of LEAs for study was done in consultation with state education agency officials. The 12 districts visited are located in five states. Student enrollment ranged from 750 in the smallest district to over 84,000 in the largest. LEAs participated in the study voluntarily; all were assured that they would not be identified in our report.

Site visits were conducted in late 1978 and early 1979. Members of Rand's Washington Office staff spent between two and seven person-days at each site, interviewing the following categories of respondents:

- School superintendents;
- School board members;
- Representatives of any organized women's interest groups in the area and individuals identified by school officials or group leaders as activists;

- Representatives of groups interested in the rights of handicapped people;
- Representatives of racial or national origin interest groups, e.g., the NAACP;
- Compliance coordinators for Title IX and Section 504;
- Leaders of the teachers' union or LEA employees' organization;
- Director of Special Education;
- Head of the LEA parent association;
- General information respondent, usually, the local education reporter;
- Participants in LEA self-evaluation processes or individuals who tried to use Title IX or Section 504 grievance procedures; and
- Other LEA employees who were responsible for making changes in LEA policy in response to Title IX and Section 504.

Interviews were based on field guides that outlined the basic lines of questioning to be pursued at each site, but permitted flexibility in the selection of topics to be covered with each respondent. At the conclusion of the interviews at each site, field workers wrote case reports that summarized information relevant to the three research questions. Those case summaries were the principal source of raw data for this report.

Data from the case studies were supplemented from two other sources: two conferences with educational administrators and interest-group representatives, and self-evaluation and grievance procedure documents collected from a larger sample of school districts.

The conferences provided general background about the experience of school officials and interest groups in trying to use the four mechanisms. The participants in one conference were state and local school officials. Under a promise of anonymity, they described their roles in implementing the mechanisms and gave advice about ways of ensuring that school officials would respond candidly in the case study interviews. Participants in the second conference were representatives of six Washington-based interest groups, three concerned with sex equity in education and three concerned with the education of handicapped children. They discussed problems in gaining access to LEA decisionmaking, and described the ways that their local chapters had participated in using the four mechanisms.

The collection of self-evaluation and grievance procedure documents permitted a substantial increase in the number of LEAs about which the study had data. Documents were requested from a probability sample of 60 school districts from five states; a total of 37 LEAs responded.[6] The documents were analyzed for content and specificity to test whether the results of the case studies were representative of the larger sample.[7]

In general, the other two sources of data reinforced the results of the case studies. Most of the findings in this report are drawn directly from the case studies. Findings drawn from other sources are identified in the text.

The 12 IHEs were selected to represent the different regions of the country: three from the Middle Atlantic region, one each from the Northeast and Mountain regions, two each from the South and Middle West, and three from the Far West.

[6] In the course of requesting the documents, reseachers tried to conduct brief telephone interviews with school officials about the status of the mechanisms in their districts. Because of the very high refusal rate (more than 75 percent), data from this source were not analyzed.

[7] Representative tabulations from the analysis of documents are presented in App. A.

The 12 institutions are in nine states. Eight IHEs are public institutions, and four are private. Seven have both four-year undergraduate programs and graduate programs through the doctorate, two have undergraduate and masters level programs, one has only a four-year undergraduate program, and two are two-year community colleges. Six institutions have medical schools. Four IHEs, three public and one private, are prominent in intercollegiate football. The smallest institution has 1,300 students; several of the larger ones have more than 30,000

Selection of IHEs for study involved several steps, after we established the general requirement distribution by region, public or private status, and two-year or four-year program. First, we asked for suggestions from people in Washington, D.C. and elsewhere who are knowledgeable about higher education. We next ruled out any IHEs that had recently undergone an OCR compliance review. We then wrote to the president of each selected institution asking permission to make a visit. All IHEs were assured that they would not be identified in our report.

Site visits were conducted from February through April by members of Rand's Washington Office staff. Seven IHEs were visited by a single member, and five by two members. The visits lasted about one day for the smaller IHEs and two days for the larger ones. At each site, Rand staff interviewed the following categories of respondents:

- Presidents, chancellors, and provosts;
- Vice presidents for faculty, student affairs, and personnel and administration;
- Deans;
- Compliance coordinators, equal opportunity directors, and affirmative action officers for both Title IX and Section 504;
- Athletic directors or associate directors responsible for womens' athletic programs;
- Other faculty and staff with important responsibilities in service provision, resource centers, and advocacy groups;
- Women students and handicapped students;
- Heads of campus women's and handicapped students' organizations; and
- Administrators in charge of resource centers for women and handicapped students.

Interviews were based on the field guides for LEAs, as modified both by experience with the schools and by prior knowledge of IHEs. On-site interviews were supplemented by the acquisition of self-evaluation reports, written descriptions of grievance procedures, general policy statements pertaining to nondiscrimination, equal opportunity, and affirmative action for women and the handicapped, and background documents. After the site visits, field workers wrote case reports that summarized the information from interview notes and documents in relation to our three research questions.

Detailed information on individual IHEs was supplemented with general information from interviews with higher education representatives in Washington, D.C. We attempted no broader sampling of IHEs by telephone, in view of our judgment from prior experience with LEAs that on-site visits were essential.

These research methods were consistent with the study's exploratory objectives. The data thus obtained illustrate the processes through which LEAs and

IHEs establish and use the mechanisms required by Title IX and Section 504, but the study does not pretend to statistical rigor. Accordingly, this report identifies the main patterns of response and notes interesting variations, but it does not calculate the frequency of particular responses to the requirements, nor does it attempt to cover all variations that may have occurred.

OUTLINE OF THE REPORT

Chapters 2 and 3 present study findings for LEAs and IHEs, respectively. Chapter 4 summarizes the evidence about the contribution that locally administered processes can make to civil rights, and recommends ways to enhance the effectiveness of the existing mechanisms.

Chapter 2

LOCAL EDUCATION AGENCIES

We found that LEAs' responses to Section 504 differed sharply from those to Title IX. The reason is clear: Section 504 is reinforced by a major federal funding program, the Education for All Handicapped Children Act, while Title IX is a pure requirement without any accompanying funds.

RESPONSES TO TITLE IX

Nearly all the districts in our sample had implemented some version of the four mechanisms, but varied widely in their implementation and day-to-day use. The differences between large and small LEAs were striking. As we had expected, the organizational arrangements for compliance coordinators, selfevaluation, and grievance processes were far more elaborate in the larger school districts. However, the actual use of the mechanisms, and their apparent importance in day-to-day LEA policymaking, did not vary systematically with the size of the school district. District size was the only one of our sampling dimensions that was consistently associated with the implementation of the mechanisms. There were no clear differences among regions of the country, or among districts with different levels of previous civil rights activity.

Implementation of the Mechanisms

Assurance of Compliance. All districts had filed assurance of compliance forms. These forms were signed by the superintendent or other authorized official, without any open discussion or public review. Districts uniformly regarded the assurance of compliance form as (to quote one official) "a simple statement that we don't intend to break the law. Since the law applies to us whether we sign the form or not, the form is just something we have to sign in order to get federal money."

The assurances were legally required shortly after the regulations came into effect (and operationally at the time of the LEA's next application for federal funds), and LEAs signed them before taking time to learn about the concrete meaning of the guarantees or to survey their own practices.[1] In general, the assurance of compliance process did not appear to play any part in informing the public about civil rights guarantees or sensitizing local agency officials to their responsibilities. All of the case study results support this simple conclusion. This report will therefore present no further analysis of the assurance of compliance mechanism.[2]

[1] Title IX self-evaluations were required within one year of the effective date of the official Title IX regulations, i.e., by July 21, 1976. By that time, most agencies had already been required to submit at least one assurance of compliance form as part of an application for federal funds.

[2] The Civil Rights Division of HEW's Office of General Counsel now believes that agencies that have failed to sign the assurance of compliance form are under no less obligation to comply than agencies that have signed. This represents a change in legal thinking since the time that the Title IX and Section

Compliance Coordinator. Title IX compliance coordinators had been designated in every district—typically, by the superintendent as a routine delegation of administrative responsibility, rather than through consultation with interest groups or the school board.

In larger districts, the coordinator was typically a full-time specialist in human relations or a federal program compliance specialist. Though always a member of the LEA central office staff, the coordinator normally reported to a department head or associate superintendent, not directly to the superintendent. In smaller districts, the coordinator was typically the school superintendent, deputy, or other senior official.

None of the Title IX coordinators had been hired specially for that job. Most had come "through the ranks," and had worked as teachers and principals before being assigned to the LEA central office. Although several had previously served as affirmative action or intergroup relations officers for the LEA, only a few had significant records of participation in civil rights or antipoverty movements. Coordinators in two of the largest LEAs were older employees anticipating retirement. Most others, however, were younger persons who saw educational administration as a career and expected to advance from the coordinator's position to other LEA jobs. About one-third of the Title IX coordinators were women and about one-third were black. All the black compliance coordinators were in large urban districts.

In the larger school districts, most coordinators' responsibilities were established in writing, either in the incumbent's formal job description or in the official declaration of policy of nondiscrimination. In smaller districts, the job was established through an informal delegation of authority, and no official position description existed. The written job descriptions were alike in most important respects. In particular, all of them made it clear that the coordinator was to oversee, but not manage, any needed changes in the district's programs. The day-to-day implementation of changes was always left to the officials (e.g., principals and LEA department heads) who were responsible for other aspects of the programs. The compliance coordinator's role was to conduct first the self-evaluations and then reviews of progress.

Coordinators in larger districts generally spent one-fourth of their time or less on matters associated with Title IX; in small districts, the coordinator's time commitment was too small to estimate. (It was clear that two coordinators in very small districts had no duties, and had been appointed only to satisfy the requirements of the regulations.) In larger districts, the coordinator usually had additional resources, in the form of junior staff assistance, released-time teachers, or a small budget to pay for conferences, consultants, and materials. In contrast, only one of the small districts we visited had made any formal allocation of resources to Title IX, other than the coordinator's time.

Self-Evaluation

All districts had conducted some form of self-evaluation, whose process, content, and products varied enormously.

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504 regulations were first written. At that time, the assurance of compliance was thought to impose an additional contractual obligation that supplemented the legal obligation imposed by the statutes and regulations.

Process. Self-evaluation was generally done through one of two methods: *correspondence* and *consultation*. Under the correspondence method, the compliance coordinator formulated a simple list of questions to be answered by school principals and LEA department heads. The questionnaire typically identified a small number of areas of LEA policy to be evaluated, and asked two kinds of questions: (1) Is there at present a pattern of sex discrimination, and (2) (if applicable) What remedial actions are required? In the rare event that a respondent had identified a problem, the coordinator asked, usually in writing, for a specific plan of remedial action. When, as was usually the case, respondents noted no problems, the compliance coordinator noted the responses and filed them away.[3]

Consultation involved face-to-face discussions among the compliance coordinator and groups of interested persons. Typically, the coordinator appointed a committee and presented a self-evaluation plan for their discussion,[4] following which the coordinator conducted the self-evaluation by means of questionnaires, site visits to schools, or both. (Committee members seldom participated in the analysis of questionnaire responses and site visits.) The committee then met at least once to review the coordinator's draft of the self-evaluation report. Some committees met several times to discuss additions to the draft and to write policy recommendations for transmittal to the superintendent or board.

Committee members were generally required to donate their time. Only one district provided financial support for the self- evaluation process in addition to paying the salaries of the compliance coordinator and staff.

Some advisory committees reportedly objected to some parts of the compliance coordinator's draft report and caused slightly stronger language to be written. Conflict did not, however, lead to open public dispute. Committees generally endorsed the self-evaluation reports as they were written.

About two-thirds of the districts relied on the correspondence process. Since the Title IX regulations do not require broad public consultation, the decision to consult the public in the course of self-evaluation was taken entirely at the discretion of the superintendent and compliance coordinator.

Content. Most districts organized their self-evaluations around the general areas of LEA policy identified in the regulations, i.e., education programs and activities, comparable facilities, access to course offerings, access to schools, counselling, marital or parental status, athletics, and employment.[5] LEAs varied enormously however, in the degree to which they gave concrete meaning to those categories. As noted above, districts that used the questionnaire method typically made no effort to give further meaning to the evaluation topics, either by identifying specific activities in need of attention or providing standards for deciding whether discrimination exists. They followed the regulations literally, by leaving all the crucial terms undefined. Questionnaire respondents therefore assigned their own meanings to the crucial terms, and responded accordingly.

[3] Typical questionnaire forms appear in App. B.

[4] One broadly based committee, convened in a big-city LEA, was composed of representatives of the American Federation of State, Municipal, and County Employees, the teachers' union, the association of LEA administrative personnel, the PTA, the local chapter of the National Organization for Women, the League of Women Voters, and the Junior League. A few other districts included female student delegates and representatives of antipoverty organizations.

[5] Other policy areas covered by the regulations, e.g., housing, financial assistance, and employment assistance, apply almost exclusively to IHEs.

About half the districts used more elaborate self-evaluation schemes than the regulations provided. Those schemes were drawn from one or more of three sources: self-evaluation guides provided by state education agencies, manuals produced by interest groups and HEW technical assistance centers,[6] and the compliance coordinator's own invention.

The chief determinant of the content of self-evaluation was the guidance that the LEA had received from outside agencies. When LEAs received checklists or manuals, they generally followed them to the letter. State coordinators for sex equity in vocational education were especially effective. LEAs in states where those coordinators had published guides or conducted self-evaluation workshops generally had thorough and complete self-evaluations of their vocational educational programs. When the state coordinator's activity was limited to vocational education, however, other areas of LEA policy were far less thoroughly evaluated.

Reporting. The Title IX regulations do not require the writing of an official self-evaluation report, but do require LEAs to keep self-evaluation records on file for three years. Many LEAs, particularly those that used the questionnaire process, produced no summary report of district-wide findings. Correspondence between the compliance coordinator and LEA department heads and principals was kept on file, but not made into an overall LEA report. Principals and department heads were presumed responsible for taking any necessary corrective action.

In other districts, the self-evaluation process culminated in a summary report, detailing the aspects of district policy reviewed and the deficiencies discovered. These reports concluded with a sex-equity action plan, which stated overall district policy and identified measures required to overcome deficiencies. In the few districts (less that one-fourth of the total) where such plans were written, they were typically endorsed by the superintendent or board.

The choice between the two patterns is not explained by district size or organizational resources. Districts that avoided producing summary reports apparently did so for two reasons: nothing in the Title IX regulations requires a written report of any kind; and district officials were reluctant to call attention to any deficiencies that might generate formal complaints or federal enforcement actions.

The formal legal status of the district self-evaluation is unclear. Officials in some LEAs avoided producing a self- evaluation report because they were afraid that any acknowledgment of deficiencies could be used against them in an OCR enforcement action. Districts that did acknowledge deficiencies apparently regarded the use of self-evaluation results as a local matter, having no bearing on the likelihood of direct federal intervention. There is some evidence in favor of the first interpretation. Some OCR regional offices regard self-evaluation documents as potential instruments for official compliance review. At least one district in our sample had received correspondence from an OCR regional office complaining that OCR was unable to evaluate the district's level of compliance from the self-evaluation report. The prospect or threat of federal action on the basis of self-evaluation results

[6] Many of the materials intended to help LEAs in their self-evaluations come out too late to have any significant effect on the process. For example, the one document that is now most widely distributed (Marsha Matthews and Shirley McCune, *Complying with Title IX: Implementing District Self-Evaluation*, Resource Center on Sex Roles in Education, Washington, D.C., 1976) was published months after the July 1976 deadline for completing the self-evaluations.

implied by such a complaint reduces the likelihood that school districts will conduct thorough and open reviews of their own performance.[7]

Grievance Procedures

The Title IX grievance procedures were similar in all the districts we visited. In most sites there was a single formal procedure for both student/parent grievances and employee grievances. Generally, the procedure had four steps. Formal written complaints were first filed with the school principal or the employee's immediate supervisor. If a complaint could not be resolved at this level, it was then appealed to the Title IX compliance coordinator, the superintendent, and finally the school board. Some of the written procedures also noted that a grievant could take his or her case further, to the state human rights agency or the OCR. Those routes of appeal, however, are always open, and the right to use them is not conferred by the LEA grievance procedure.

Most of the grievance procedures allow little time (ten working days is standard) for each stage. The LEA does not pay for counsel or furnish technical assistance. In general, the entire burden of formulating and pressing the complaint is on the grievant. (Appendix C presents examples of local grievance procedures, one very simple and another more complex.)

Most districts relied far more on less formal means of complaint resolution: discussions between the grievant and the school principal or district superintendent. Most employee grievances did not go through the Title IX grievance process, but were handled instead through procedures specified in the unions' collective bargaining agreement or other employee organization contracts.

Dissemination of Information About the Mechanisms

In most districts, only central LEA personnel are well informed about the three mechanisms. This is due partly to the fact that the mechanisms are not well publicized, and partly to the low level of local interest-group activity. In many districts we were unable to find any organized women's groups that regularly monitored educational activities or had frequent contact with LEA officials. Even in metropolitan areas, where five or more women's organizations typically existed, it was difficult to find groups that maintain a continuing interest in school affairs. Only two districts had interest groups that made organized efforts to inform members and the public about the availability of the compliance coordinator, self-evaluation, and grievance process.[8]

[7] The Civil Rights Division of HEW's Office of General Counsel does not consider self-evaluation reports to be sufficient grounds for federal enforcement action against an LEA. OCR can use such results to identify possible problems, however. LEAs that identify compliance problems in their self-evaluation reports thus increase the likelihood that OCR may select them for compliance reviews. In other federal programs, such reviews are treated as sanctions in themselves. As Hill (1979) notes, many LEAs find the disruption and inconvenience caused by a federal compliance review to be highly aversive whether or not they ever lead to the imposition of fiscal penalities. In that sense, frank self-evaluations can definitely invite the imposition of sanctions.

[8] Washington-based interest groups and persons we interviewed for the study of colleges and universities provided several examples of efforts by local women's groups to monitor LEA self-evaluations. (An example of a good monitoring report is *From Sex Bias to Sex Equity: Where Are We in Our Schools?* by the League of Women Voters of Salt Lake City, March 1978.) Such efforts are, however, relatively rare, and clearly do not affect more than a few hundred of the country's 17,000 school districts.

A few LEAs made extensive efforts to inform the community about the results of self-evaluation, the existence of a grievance procedure, and the name and duties of the compliance coordinator. This was done through publication of brochures, fliers sent home with children, news releases, and public meetings. Most districts, however, simply post or publish a general policy of nondiscrimination, along with the name of the compliance coordinator and a statement that a grievance procedure has been established.

Regardless of the level of the district's publicity effort, few parents or interest-group leaders are well informed about the mechanisms. Newspapers carry stories about interesting grievances or about disputes that reach the school board, but take no interest in the normal processes of self-evaluation or the day-to-day activities of the compliance coordinator. Most parents and group leaders intervene in school affairs only when they have a specific complaint. Most inform themselves about the system *de novo* whenever they have complaints. They can learn readily about the grievance process or the compliance coordinator from the superintendent's office or from their local school principal.

Small school districts are less likely than large ones to use formal publicity channels, but most people know where to go with a problem. In small districts, most parents and group leaders we interviewed knew the name of the official responsible for Title IX, even if they did not know that he or she had been officially designated as compliance coordinator.

Use of the Mechanisms

In most school districts, the day-to-day use of the mechanisms for self-initiated compliance was almost exclusively the business of mid-level LEA employees. Compliance with Title IX is treated as an administrative process, not requiring the attention of the school board, interest groups, or other instruments of local political accountability. In larger districts, compliance responsibilities are delegated to administrators two or more levels below the superintendent. LEA staff members act primarily on their own initiative and according to their own standards. Locally initiated response to Title IX is therefore primarily a function of what LEA employees understand the guaranteed rights to be and of how they are motivated by personal conviction, sense of professional duty, or desire to avoid being the object of a formal complaint. The remainder of this section will discuss the use of the three mechanisms separately.

Compliance Coordinator. Though every compliance coordinator we observed was in some way unique, it is possible to summarize most of what we found by means of a simple typology. Coordinators tend to operate either as *administrators*, *advocates*, or *apologists*.[9] In our sample, the administrator was the commonest type, followed by the apologist. Only two Title IX coordinators can be classed as advocates. (This pattern is in marked contrast to the tendency, reported below, for the advocate to be the commonest type of Section 504 compliance coordinator.)

The *administrator* makes the organizational arrangements for conducting the self-evaluation, ensures that grievances are handled according to the terms of the

[9] This typology of Title IX compliance coordinators is similar to one developed by Miller et al. (1978), based on a study they conducted for HEW Region X. They identified three roles that compliance coordinators typically play: *advocate*, *compliance officer*, and *defender of the institution*. The two typologies differ only in that Miller's "compliance officer" is a hybrid of our "advocate" and "administrator."

grievance procedure, and disseminates any information received from federal and state governments to LEA senior staff. This coordinator ensures the propriety of local processes but neither pushes for substantive changes in district policy nor encourages others to do so.

The *advocate* actively solicits the participation of interested outside parties in the self-evaluation, advises potential users of the grievance procedure, and presses the superintendent and LEA department heads to correct problems identified by the self- evaluation. In general, the advocate operates as a major source of pressure for self-initiated response to the civil rights guarantees.

The *apologist* operates to limit pressures on the LEA. This coordinator conducts the self-evaluation as quietly and on as small a scale as possible, and tries to head off complaints before they reach the grievance process. In dealing with parents and interest groups, the apologist explains district policy and tries to shield the superintendent and board from outside pressures.

The compliance coordinator's orientation has important implications for the level of self-initiated response exhibited by school districts.

The two coordinators who operated as advocates were the focal points of their districts' efforts. Advocates had personal connections with outside interest groups and the school board. Those connections resulted in a far better flow of information about civil rights guarantees and the availability of mechanisms for local response than could be accomplished through formal communications media. They also enabled the compliance coordinator to orchestrate interest-group pressure on the school board and LEA administration.

We encountered too few advocates in the LEAs to make any general statements about their distinguishing personal characteristics. Even if we include the LEA Section 504 coordinators, it is impossible to provide a demographic profile. Advocates are distinguished by their orientation to the coordinator's job, not by their sex, age, race, or handicap. Most advocates are skillful negotiators. They believe that achieving the goals of civil rights laws requires a long process of change; accordingly, they avoid confrontation tactics that might destroy their working relationships with other LEA officials.

In districts where the compliance coordinator operates as an administrator, the main burden of response is often carried by others, most frequently the assistant superintendents in charge of such departments as physical education, vocational education, and counselling. These officials initiate their own departments' responses and operate de facto as decentralized compliance coordinators, but make little use of the LEA's official self-evaluation and grievance process. Though administrators generate less pressure for locally initiated response to civil rights than do advocates, their work is often highly significant; simply providing information is vitally important. Many LEA employees share the administrator's own willingness to respond to civil rights requirements simply because they are the law. A concrete statement of what the law requires is often enough to stimulate those employees to act on behalf of the civil rights guarantees.

Under an apologist, the formal self-evaluation and grievance procedure mechanisms have little significance. Any locally initiated response to the civil rights guarantees comes from other people's informal actions: parents, interest-group leaders, teachers, LEA department heads, the superintendent, or school board members. Locally initiated response to civil rights guarantees is weaker in districts

whose compliance coordinators are apologists than in those that have advocates or administrators.

The coordinators' orientation is usually no accident. They are clearly chosen to do the kind of job the superintendent wants. This is obvious in small districts, where the coordinator is typically either the superintendent or a senior member of the superintendent's staff. Some coordinators are important forces for change in LEA policy. Though no small-district compliance coordinator was as aggressive as some of the big-city advocates we observed, some were clearly far ahead of their school boards and communities in responding to sex equity issues.

Self-Evaluation. In the districts we visited, self-evaluation was performed once during the 1975-1976 school year. Though there was some evidence that self-evaluation affected district practice at that time, the process and the reports it produced are now little used.

The significance of self-evaluation in most districts was that it provided an occasion for LEA officials to reflect on what the general principles of sex equity implied for day-to-day practice. Self-evaluation guidelines devised by the SEA or the local compliance coordinator often alerted LEA officials for the first time to the fact that sex equity involves more than athletics. In most districts, the process was used by LEA staff—most often the compliance coordinator and other central office employees—to identify the need for a few changes to be made quietly by LEA department heads or school principals. Interest groups and school board members seldom had enough information about self-evaluation results to use them in pressing for policy changes. The use of self-evaluation results was solely a matter of administrative discretion. Though many officials made significant changes in district policies they were responsible for, they did so out of a sense of professional obligation or fear of OCR review. They and the other officials who chose to make no changes were not held accountable by anyone else at the local level.

Broader use of self-evaluation occurred only in those districts that published a summary report on self-evalution findings. A district-wide summary report was extremely important in ensuring that self-evaluation would influence school district policy. Though most reports were vaguely worded, they were useful as statements of general principle that the compliance coordinator could use in quiet efforts to persuade principals and department heads to change deficient sex equity practices.

Reports varied in length and specificity. The longest identified as many as 50 areas that had been reviewed and made as many as 20 recommendations. The shortest occupied as little as one page and made no recommendations. Most are brief and few contain exact delegations of authority, management plans, or deadlines for changes. The following are representative items from a sample of the 50 self-evaluation reports we collected:

> The generic 'he-she' shall be avoided in favor of such items as 'students' or 'pupils' when revising and rewriting any printed materials.
>
> [It is recommended] that mandatory awareness of Title IX and its implications be brought to the attention of each employee in workshops at the beginning of the next school year.
>
> Non-compliance currently exists due to the fact that students in the Young Parents Program do not currently have access to courses in physical education. The graduation requirement effective 1977 requires students to suc-

cessfully pass 1½ credits in physical education. *The Remedial Action* specified was for [administrator] to work with [administrator] and the medical consultant and Program Director from the Young Parents Program to develop a program alternative which would be acceptable medically and educationally to fulfill the graduation requirement in physical education if the student chooses to during the time she is in the Young Parents Program.

On-site field space is not adequate to facilitate all sports programs. Girls' field hockey teams, softball teams and track teams have had to travel for practice and games or meets. The utilization of existing facilities has not been equitable for members of both sexes. *Modification* undertaken this year has been for the coaches to cooperatively share limited practice time for girls' hockey and softball on-site. However, fields have not been lined nor is there a backstop available. *Remedial Action* includes: (1) [head of girls' sports program] scheduled meetings with the Director of Parks and Recreation to consider the development and use of other fields and (2) a local committee has been formed to restudy the remote site field and make some recommendations for its use.

A new [employee] application form must be adopted, one that omits any questions regarding sex, parental, or marital status.

[It is recommended] that an extra-curricular pay schedule [for athletic coaches] be adopted by the _____ school system.

A more careful evaluation of both athletic and physical education budgets [should] be conducted to determine areas of inequality.

> Problem: Two courses described as (a) Physical Fitness—Men, and (b) Slendering Exercises have by title resulted in limiting open access to both courses. Remedy: The word "men" will be removed from the fitness course description and both courses will be open to members of both sexes in the fall of 1976.

The most concrete self-evaluation report we saw was done by the vocational education department of an LEA in a state whose SEA Vocational Education coordinator was highly active. A typical entry reads:

> *Objective:* To put into operation a continuing recruitment program for persons of other than the traditional sex to teach, administer, and supervise vocational education. *Outcome expected:* An increase in the number of women teaching, administering, and supervising vocational education. *Responsible party:* Division of Personnel. *Target date:* continuing.

Official school board endorsement can make the self-evaluation report a valuable accountability device in the hands of an "advocate" compliance coordinator. When we encountered such districts in the case studies, we found that most of the changes recommended by the self-evaluation report had been made by the time of our visit.

Grievance Procedures. Title IX grievance procedures were seldom used in the districts we visited. No district reported handling more than ten grievances, and many had none at all.

Nearly all of the complaints for which the formal grievance procedure was used concerned girls' access to varsity sports teams and athletics facilities. The Title IX grievance procedures were seldom used by LEA employees, since most formal complaints against sex discrimination in hiring and promotion relied on guarantees

established by Title VII of the 1964 Civil Rights Act, and were filed through the union grievance procedure.

In all of our districts, it was apparent that nearly all disputes over sex equity issues are resolved prior to the formal stages of the grievance process. This is so for several reasons. First, many of the complaints concerned behavior by school employees that violated the districts' own policies. In such cases, the LEA administration treated the employee's behavior as a mangement problem, to be solved immediately through the use of the superintendent's authority, rather than as a dispute to be settled through quasi-judicial processes. Second, all potential parties to formal grievances are reluctant to pay the costs in time and emotional strain that formal grievances entail. Even those compliance coordinators whom we would class as *advocates* did not try to promote the filing of formal grievances. School officials and potential grievants alike are reluctant to spend the time, or to endure the notoriety, associated with a formal grievance process. Those grievants who are willing to engage in public adversary proceedings are likely to complain to higher authorities, such as the school board, the state civil rights office, or to OCR.

There were clearly very few "successful" formal grievances, if success is defined as producing the exact outcome requested by the complainant.[10] In the districts we visited, the clearest case of such "success" was the reassignment of a teacher whose lectures included derogatory remarks about women. The most significant outcome of a formal grievance we encountered came from a technically *unsuccessful* grievance. High school girls in a big-city school system filed a grievance against the LEA's director of inter-scholastic sports for operating a boy's softball tournament without offering a similar program for girls. The girls filed their grievance in March, ten days before the boys' tournament was to begin. Within a week, the LEA's "administrator" compliance coordinator had decided in favor of the grievants; the sports director, however, appealed to the school board, and won. The board decided the case on purely financial grounds: At the end of the school year, not enough money was left in the budget to pay for both boys' and girls' softball. The boys' tournament was allowed to proceed, but the board budgeted a full-scale girls' softball tournament for the next year. The combined girls' and boys' softball tournament is now the main feature of the LEA's spring sports program.

Counting clear "successes" can give a misleading impression about the part that the grievance process plays in local response to Title IX. The very existence of a formal grievance process may put pressure on LEA officials to accommmodate complainants whom they would otherwise ignore. School principals and LEA department heads are reluctant to have their problems come to the attention of the superintendent or the school board. Many are therefore willing to bargain with complaining teachers, parents, or students in hopes of settling a dispute before it becomes a matter of formal record. Title IX compliance coordinators in many districts played an important part in this process. A number of compliance coordinators—including "advocates," "administrators," and "apologists"—told of instances in which they had urged mid-level officials to accommodate a grievant's request rather than resist it and endure the formal process.

The same sort of informal pressure provides some protection from retaliation against complainants who have used the formal grievance process successfully. In

[10] This definition of "success" makes no assumption about the legal merits of the complainant's case. Under this definition, a case could be called "unsuccessful" even if it was decided correctly.

those districts—nearly all, apparently—where the board and superintendent are eager to avoid any appearance of impropriety, retaliation is a very dangerous course for a school official to take.

The protections against retaliation are less clear in districts that willingly engage in litigation. One such district appeared in our sample. Its board and superintendent established a large budget for legal fees, and were prepared to oppose federal requirements that they thought unduly restricted local autonomy. From what we could observe, the LEA's hostility was directed more to the federal government than to the principles of sex equity. The LEA had made a number of major changes in its programs to improve opportunities for girls, but it strongly resisted any pressures for change based on the federal requirements. Though we have no evidence that the LEA would retaliate against local complainants, it is clear that the prospects of litigation and public controversy would not be deterrents.

SECTION 504

We observed quite different patterns of locally initiated response to Section 504 than to Title IX. The main differences were of three kinds. First, parent and interest group involvement is much more extensive and well organized with respect to the rights of handicapped children than to sex equity. This is reinforced by the fact that Section 504 expressly requires consultation with interested persons, and Title IX does not. Second, the LEA administrative response to issues concerning handicapped children is intense and definitely concentrated in one part of the LEA organization—the special education department—while, in contrast, the responsibility for sex equity rests lightly on several parts of the LEA bureaucracy. Third, Section 504 is reinforced by another set of federal requirements about the education of the handicapped, specifically P.L. 94-142, the Education for All Handicapped Children Act. That act opens additional channels of access to LEA decisionmaking for handicapped children and their parents, and provides special funding to help the LEAs respond.[11] No federal funds are available to pay for program changes required by Title IX.[12] The following discussion will illustrate the importance of these differences.

[11] P.L. 94-142 is intended to guarantee that all of the nation's handicapped children receive "special education and related services." For each handicapped child there will be an "individualized educational program" jointly developed by a qualified school official, the child's teacher, parents or guardian, and if possible, by the child. The plan must be a written statement that includes an analysis of the child's present achievement level, a listing of both short-range and annual goals, an identification of specific services that will be provided, an indication of the extent to which the child will be able to participate in regular school programs, a notation of when these sevices will be provided and how long they will last, and schedules for checking on progress and updating the plan. Any further decisions concerning a handicapped child's schooling must be made through prior consultation with the child's parents or guardian. Should the child or parents object to a school's decision, a formal process must exist to handle their complaints. That process must include an opportunity for an impartial hearing which offers parents rights similar to those involved in a court case: the right to be advised by counsel (and by special education experts if they wish), to present evidence, to cross-examine witnesses, to compel the presence of any witnesses who do not appear voluntarily, to be provided a verbatim report of the proceedings, and to receive the decision and findings in written form. Decisions made during this hearing can be appealed to the state education agency. If either the parents or the LEA is unhappy with this decision, civil action can be initiated in a state court or federal district court. For information about the program's activities, see HEW, *Progress Toward a Free Public Education*, 1979.

[12] The Womens' Educational Equity Act in the 1978 Elementary and Secondary Amendments authorizes funding for local Title IX compliance activities. However, no such funding will be available until the appropriation for the Women's Educational Equity Act exceeds $15 million per year. At present, appropriations for the program are approximately $10 million.

Implementation of the Mechanisms

Compliance Coordinator. More than three-fourths of the districts we visited had appointed compliance coordinators. However, the coordinator's formal place in the LEA organization varied widely. In more than half the districts, the compliance coordinator was the district's director of special education, who was also responsible for implementing P.L. 94-142. The next most common pattern was for the coordinator to be a general federal program specialist, in charge of compliance with all civil rights laws and, on occasion, with ESEA Title I as well. (Many of the very small school districts in our sample fit this pattern because the superintendent or deputy is the coordinator or compliance specialist for all programs with external funding or regulations.)

Most compliance coordinators had other formal responsibilities and spent a small fraction of their time on matters directly concerning Section 504. That was particularly true when the coordinator was someone other than the head of special education. If the coordinator was a general federal programs compliance specialist, or the head of an LEA department other than special education, his or her function was usually limited to completing the self-evaluation and operating the grievance procedure. Compliance coordinators who were also district directors of special education were constantly active in many areas relevant to Section 504. Unlike the other Section 504 coordinators and all the Title IX coordinators, they were responsible for the day-to-day implementation of the required changes. Their activities under Section 504 were inextricably mixed, however, with the implementation of P.L. 94-142. Later sections of this report will illustrate the importance of that overlap.

Self-Evaluation. Most districts appear to have complied with the substance, if not the letter, of the Section 504 self-evaluation requirement. Though few districts had completed formal self-evaluation reports, all had executed a self-evaluation process of some kind. The nature of that process, however, varied from place to place.

Many of the districts considered the planning and review process requirement for the filing of an application for P.L. 94-142 to be an adequate response to the Section 504 self-evaluation requirement. That process generally involved a broad review of district policies on service to handicapped children.

Most districts had formed committees composed of parents, interest group representatives, facility or barrier specialists, medical personnel, special education teachers, and members of the LEA administrative staff. The compliance coordinator, with the assistance of the advisory committee, generally reviewed a broad range of district policies on service to handicapped children.

When the self-evaluation process was conducted apart from the planning for P.L. 94-142, it was usually limited to a narrow range of district policy and seldom reviewed educational services. For example, some districts' self-evaluations covered only access to physical facilities, or access plus employment practices. Such limited self-evaluations occurred most often when the compliance coordinator was someone other than the district special education director. They were generally conducted by a small number of central district staff members, and their findings were usually written into a summary report but not published.

There were a few cases of comprehensive self-evaluations conducted apart from the P.L. 94-142 planning process. These, like the planning processes for P.L. 94-142,

were summarized in writing, along with recommendations and a schedule for program improvements, and made public.

Many districts were confused about what kind of review of their physical facilities was required. Most were unsure of the meaning of Section 504's requirement of full accessibility of programs, and felt that the only sure way of avoiding charges of noncompliance would be to conduct a comprehensive review of all their buildings and grounds. They were reluctant, however, to conduct a formal review that would inevitably show that their school buildings needed massive alterations. Most preferred to be guided by the prescriptions in the Individual Education Plans (IEPs) required by P.L. 94-142, making only those arrangements necessary to remove barriers to present students' access to schooling.

Grievance Procedure. Only two school districts we visited had a separate procedure for Section 504. Some school districts had grievance procedures to cover all civil rights and human relations complaints, and others had combined processes for Title IX and Section 504. Such "combined procedures" had the same range of formal characteristics as was described above for Title IX.

Most districts regarded the due process guarantees of P.L. 94-142 as a framework for any student or parent complaints under Section 504. LEA staff grievances were universally to be handled through the usual employee process or other employee organization's formal grievance process.

Disseminating Information About the Mechanisms

Information efforts were far more extensive on issues of handicapped children's rights than on Title IX. Large districts used combinations of printed brochures, published notices, paid advertising, and public meetings. Even the smallest districts routinely sent information packages on children's rights and services available to the parents of every handicapped child. There was little information specific to Section 504, however. The rights and procedures described in most information releases combined the features of P.L. 94-142 and applicable state laws without making direct reference to Section 504.

Exceptions to this pattern were evident in the few districts that conducted separate comprehensive self-evaluations for Section 504. In those districts, the self-evaluation reports and grievance procedures were endorsed by the school board and published as official LEA documents.

The district director of special education was widely known among interest group leaders and parents of handicapped children. That official was the obvious first point of contact for parents and group leaders, whether or not he or she was officially the Section 504 compliance coordinator. When the compliance coordinator was someone other than the special education director, his or her identity and responsibilities were generally unknown outside the central LEA staff.

The Section 504 grievance procedure was unknown, even among LEA staff members, in all but a few districts.

Use of the Mechanisms

The level of locally initiated response to federal guarantees of the rights of the handicapped is very high. Parents, interest group leaders, and LEA officials all take some initiative to affect both overall LEA policy and the treatment of individual

handicapped children. It is impossible, however, to attribute or associate much of that locally initiated activity with the mechanisms specifically provided by Section 504. The mechanisms of P.L. 94-142 (and associated state programs) for district-wide planning, prescription for individual students, and day-to-day adjustment of the special education program, provide the framework for most LEA policymaking.

A brief discussion of each of the three mechanisms provided by Section 504 will make these propositions more concrete.

Compliance Coordinator. Section 504 compliance coordinators who are not also district directors of special education play little or no part in the day-to-day management or evaluation of services to handicapped children. They manage the self-evaluation process, but the implementation of policy changes is left to the special education department. Thus, once the self-evaluation evaluation is complete, the compliance coordinator has nothing to coordinate. In contrast, almost all directors of special education operate as "advocates," as defined in the above discussion of Title IX. Most special education directors have important political connections with interest group leaders and members of the school board. On questions of increasing the budget for special education and improving general services for handicapped children, they are naturally allied with strong and alert groups of parents of handicapped children. Though these alliances become strained from time to time over the services provided to individual children, the special education department remains the source of most response to federal requirements concerning services to handicapped children. When parents' interest groups opposed the LEA special education staff, the issue between them usually involved the response to Individualized Educational Plans (IEPs) that prescribed extraordinarily expensive services for individual multi-handicapped children. On most general policy matters (especially the budget and staffing for services to handicapped children), the LEA special education staff provided the leadership that the interest groups needed in formulating and lodging their demands.

Self-Evaluation. Even where Section 504 self-evaluation results are distinct from the results of LEA planning for P.L. 94-142, their implementation is seldom distinct from the management of state and federal special education programs. The sole exeption is recommendations for alterations in LEA facilities. In a small fraction of the school districts, a limited number of changes in physical facilities were made even though they were not prescribed by any student's IEP.

Grievance Procedures. Section 504 grievance procedures were used only twice in all the districts we visited. In contrast, the P.L. 94-142 procedure for appealing IEP determinations was used in a small but significant percentage of cases.[13] The different rates of use of the two grievance procedures is easy to explain. P.L. 94-142 covers most of the same topics as Section 504, and it also provides funds to pay for the activities it requires. In addition, parents do not have to enter into direct conflict with school officials in order to gain access to the IEP process. The IEP is a normal procedure for establishing handicapped children's education programs, and it seldom leads to disputes that cannot be resolved in the normal preplacement meetings. Parents are thus not reluctant to enter the process initially. For those parents who find themselves dissatisfied with a child's IEP, local interest groups (e.g., the Association for Children with Learning Disabilities) are available

[13] For a full description of the IEP process and some concrete examples of its operation, see Marver and David, 1979.

to offer advice and emotional support. By the time an IEP discussion turns into an open dispute, many parents are apparently familiar and comfortable enough with the process to be willng to use it to question the judgments of school officials.

SUMMARY

The mechanisms made real, but limited, contributions to most LEAs' response to the civil rights laws. The mechanisms operated within, and seldom altered, the climate for local response set by the superintendent and school board.

Title IX and Section 504 were treated very differently. LEAs' response to Section 504 was confounded with the implementation of P.L. 94-142. The education of handicapped children was a major concern of local policy, but the unique contribution of the Section 504 requirements was apparently slight. Section 504 compliance coordinators were almost all advocates, and they conducted thorough self-evaluations and significant grievance processes; but most of that activity was due to P.L. 94-142. In contrast, there is only one major sex equity requirement, Title IX, and it is not supplemented by a large federal funding program.[14] There is consequently much less activity on behalf of sex equity than of education for the handicapped. The specific effects of the Title IX requirements are more apparent, however, than those of Section 504.

Much of the activity on behalf of sex equity has been stimulated by the Title IX requirements. Many school officials have accepted the principles of sex equity and changed their own modes of operation. Most of these changes have come in direct response to the law, and have not been caused directly by the mechanisms. The importance of the mechanisms varies from one LEA to another, depending on the compliance coordinator's role orientation. An *advocate* compliance coordinator is most likely to conduct a thorough public self-evaluation, to use the results in monitoring the progress of local compliance efforts, and to use the grievance procedure as a source of pressure for the serious treatment of informal complaints. An *administrator* or *apologist* coordinator is far more likely to leave the local response to Title IX to the initiative of individual LEA employees, and the other mechanisms have relatively little importance.

[14] Fishel and Pottker (1977) present a history of federal policy toward sex discrimination that explains the low level of funding for Title IX compliance efforts.

Chapter 3

INSTITUTIONS OF HIGHER EDUCATION

All of the institutions of higher education (IHEs) in our sample had implemented the four self-administered mechanisms to some degree. There were few major systematic differences among IHEs regarding the implementation and use of the four mechanisms. Most institutions followed similar patterns for both Title IX and Section 504. Consequently, the following discussion treats Title IX and Section 504 together, rather than separately as was the case with the LEAs.

The three following sections present our detailed findings about the implementation of the mechanisms, the spread of information about them, and their use.[1]

IMPLEMENTATION OF THE MECHANISMS

Assurance of Compliance

All IHEs in our sample had filed the official assurance of compliance forms, signed by the president or his delegated representative. The forms both fulfilled the requirement of the regulations and stated the IHE's commitment to obey the law. They were not used, however, to inform beneficiaries or the public about civil rights guarantees or to guide IHE officials in the fulfillment of their responsibilities. The limited effects of the assurance of compliance forms leads us to present no further analysis of them.

Compliance Coordinator[2]

On all but two of the campuses we visited, one person was formally designated as compliance coordinator for both Title IX and Section 504. Without exception, the compliance coordinator's responsibilities were part of a larger set of responsibilities that usually included affirmative action and equal opportunity employment. Position titles reflected these multiple, related, civil rights responsibilities, e.g., "assistant chancellor and director of affirmative action;" "director of affirmative action and equal opportunity." The day-to-day operational responsibilities associated with these two different statutes and regulations were carried out by others (as we will discuss in the next section).

The institution's efforts to comply with the Title IX intercollegiate athletics regulations involved the president of the institution and the intercollegiate athletic department, but seldom included the compliance coordinator in a significant way.[3] If the compliance coordinator was involved, it was typically as staff to the president.

[1] For an overview of the problems of implementing civil rights guarantees in IHEs, see Lester (1974).

[2] Section 86.8 of the 1975 regulations for Title IX and Section 84.7 of the 1977 regulations implementing Section 504 set forth the requirement for the appointment of a compliance coordinator. (For the complete language of the regulations, see App. A.)

[3] The controversy over the application of Title IX to intercollegiate athletics is unresolved in mid-1979. A proposed "Policy Interpretation," having the same status as a proposed rule, was published for

In the predominant institutional pattern, there was a full-time official responsible for the related issues of compliance, affirmative action, and equal opportunity. In two instances, the official responsible for civil rights activities had previously been responsible for other unrelated functions as well, but in both cases, the institution was moving to a full-time position devoted exclusively to civil rights. In one instance, where the coordinator's official responsibilities went beyond civil rights, the individual functioned as a broker, referring civil rights matters to others within the institution as appropriate. In another instance, a vice president responsible for personnel and administation was assisted by an aide who devoted full time to civil rights. In most institutions, the coordinator reported directly to the president. In some instances, there was one other individual between the civil rights official and the president.

The civil rights official typically had one or several full-time junior administrative staff and a full-time secretary providing support for compliance, affirmative action, and equal opportunity responsibilities. In addition, various civil rights responsibilities were typically distributed throughout the institution on a decentralized basis, thus providing resources on which the coordinator could draw as necessary. In one instance, the director of affirmative action and equal opportunity had received an allocation of Comprehensive Employment and Training Act (CETA) funds and had used them to further Section 504 objectives.

Coordinators at the campuses we visited were divided about equally between men and women. There was some evidence, however, of movement toward greater representation of women: e.g., in one institution where the coordinator had been a man, a recruitment effort was currently under way to fill the position with a woman; in another institution, a man was filling the position on an acting basis while the woman who had the position was on leave for a year. Whites were as likely to be coordinators as blacks and hispanics. In fact, black males and white females appeared to be the main sources for coordinators. Coordinators were likely to be people in their thirties and forties, with a few over fifty. Most have advanced degrees, with about one-half having the Ph.D. and the other half having a masters degree. The one individual who had only a bachelor's degree was in a two-year community college. All coordinators had administrative appointments; only one held a concurrent faculty appointment. Most coordinators are pursuing administrative, not academic, careers in higher education.

SELF-EVALUATION[4]

The following pages present our findings about self-evaluation in terms of the process, content, and reporting of the evaluations.

Process. There were two basic patterns by which self-evaluations were conducted. In the most prevalent, the university president designated a committee or task force to conduct the study and prepare a report. In the other, a single administrator surveyed the institution's administrative units and academic departments,

public comment in late 1978; see 43 *Federal Register* 58070, "Title IX of the Education Amendments of 1972; Proposed Policy Implementation: Title IX and Intercollegiate Athletics," December 11, 1978.

[4] The self-Evaluation requirement for Title IX is set forth in Sec. 86.3 of the regulations; similarly, Sec. 84.6 of the regulations for Sec. 504 sets forth the handicapped self-evaluation requirement (see App. A).

analyzed the survey data, and prepared a report. In one case, this second pattern was so weak as to practically constitute a third pattern, namely, the conduct of a self-evaluation solely by one individual. The compliance coordinator was typically the individual designated to staff and coordinate the self-evaluation.

The composition of the committee or task force, where this pattern was used, was either university-wide or wholly administrative. University-wide membership included faculty, students, and administrative staff. A faculty member often chaired the committee under such an arrangement. Where a wholly administrative committee was constituted, members were usually the institutional vice presidents. Each vice president was then responsible for the self-evaluation of the administrative and academic units under his or her jurisdiction.

Student participation did occur, then, but the date for completion of the Title IX self-evaluation was July 21, 1976, and that for Section 504 was June 3, 1978. Consequently, student participation declined when final examinations impended, and often terminated with the end of the academic year.

In one university, the president conveyed the basic study requirements to the vice presidents, basing his instructions on the staff work of the compliance coordinator. The vice presidents then created self-evaluation subcommittees composed of department heads and activist volunteers. Each subcommittee produced a report, which was then reviewed by the campus Equal Opportunity Commission, a creation of the compliance coordinator, which asked the subcommittees to clarify or review certain portions of their reports. The subcommittee reports then went to the respective vice presidents and became the basis for each vice president's negotiating his compliance agenda with the university president. This degree of thoroughness, however, was not found in every institution.

The conduct of the self-evaluations differed as the substantive concern varied. The Title IX review of educational programs, for instance, often involved participation from the campus women's resource center and the affirmative action/equal opportunity officer. The Title IX self-evaluation of the intercollegiate athletics program normally was internal to the athletics department, or included faculty members with long involvement in the university's athletic program. The Section 504 self- evaluation typically involved participation from the administrative unit in charge of physical plant and space utilization, and also from the handicapped students resource center or its equivalent.

Content. The content of self-evaluations was basically commensurate with the coverage of the regulations. The general Title IX review focused on institutional policies, then on programs. Substantive concerns included: admissions, recruitment, educational programs, housing, comparable facilities, access to course offerings, counselling, financial assistance, employment assistance to students, health and insurance benefits and services, marital or parental status, and textbooks. Employment, however, was seldom covered, although called for by the self-evaluation requirement: The primary reason was that most institutions had filed annual affirmative action employment plans with the federal government for several years, and may have concluded that a Title IX review would be redundant.[5]

Title IX athletics reviews, we discovered, were often very detailed and thorough. They tended to address the topics set forth in Section 86.41 of the regula-

[5] More recently, several courts have held that Title IX does not cover employment, contrary to the position adopted by HEW in the regulations. See Siegel, 1979.

tions—selection of sports and level of competition, equipment and supplies, scheduling of games and practice time, travel and per diem allowance, opportunity to receive coaching and tutoring, compensation of coaches, provision of locker rooms, practice and competitive facilities, medical and training facilities, housing and dining facilities, and publicity. Though the review committee was typically internal to the athletic department, the combination of the representation on the committee of the associate department director in charge of women's athletics and the detail of the self-evaluation often resulted in a clear basis for institutional response to the statute and regulations.

Section 504 self-evaluations were preoccupied with physical access, a fact attributed by many to the intersection of the self-evaluation requirement with that of "program accessibility" of existing facilities.[6] This latter requirement emphasized access to programs, not just to buildings, but left unclear the relationship between the two.[7] The program accessibility section also called for a "transition plan" that set forth needed structural modifications. Since the deadline for this plan preceded that for the self-evaluation by six months, the former became a de facto part of the latter. Needed structural changes identified in the transition plan, moreover, were to be made by June 3, 1980, thus confronting colleges and universities with potentially large capital requirements for a relatively small number of beneficiaries in a period of increasingly stringent general capital needs. The preoccupation of most self-evaluations with the physical access issue, therefore, sharply limited their scope and their general utility.

The format for conducting self-evaluations was either determined by the individual campus on the basis of the regulation, or adopted from guidance provided by a national organization. The self-evaluation frameworks most often used were the ones developed by the American Council on Education (ACE) for Title IX[8] and by the National Association of College and University Business Officers (NACUBO) for Section 504.[9] The content of these guidelines had a profound effect on the self-evaluation process. Though not within the scope of our research project, the process of generating, reviewing, publicizing, and using guidance for self-evaluation developed by national organizations should be explored in greater detail.

Reporting. The regulations for neither Title IX nor Section 504 expressly require that a report per se be a product of the self-evaluation. Even so, nearly all IHEs did prepare one or more reports. For Title IX, for instance, often one report was prepared for the general educational provisions of the regulations and a separate one for the athletic department. In the case of Section 504, we found one instance of a report prepared for the health sciences complex and a broader one for the rest of the university.

Only one institution could not provide us a report. Its self-evaluation had consisted merely of the compliance coordinator's asking for data on services for handicapped students and on the progress of a long-term commitment to minor modifications of facilities. The coordinator deemed a task force approach unnecessary, since the services and facilities representatives sat on a committee for handicapped students which was advisory to her.

[6] For several years, all new construction on the campuses we visited has been built to specifications allowing physical access for the handicapped.

[7] See Sec. 84.22 of the regulations.

[8] Taylor and Shavlik, 1975.

[9] Biehl, 1978.

The reports varied tremendously in length, format, thoroughness, and scope. Some were exceedingly brief, while others were multivolume tomes. Some were in loose-leaf notebooks, though most were stapled if not bound. Athletic department Title IX reports tended to be the most detailed, and on several occasions were closely related to the formal institutional five-year planning process and documents. One Section 504 report was highly detailed, partly because state legislation required similar information. On several occasions, the Section 504 report was closely related to the Section 503 report requirement of federal contractors for an affirmative action plan for the handicapped.

Reports tended not to be well-publicized at the time of completion, due largely to the summer 1976 and summer 1978 deadlines, which occurred while the campus was in the least active phase of annual activity.

GRIEVANCE PROCEDURES[10]

During the 1970s, there has been an increase in the development of formal procedures to ensure the availability of due process to students, faculty, and nonacademic staff having complaints or grievances against their institutions. This development reflects a number of important changes in society and the institutions themselves. First, these procedures are a response to the civil rights demands of the past two decades. Second, they reflect a consensus that informal dispute resolution processes have often served the interests of institutions more effectively than those of individuals, and that the protection of individual rights requires formal safeguards. Third, the increasing scarcity of nontenured faculty positions has generated pressure for formal dispute-resolution procedures between nontenured and tenured faculty.

In this context, the requirements of Title IX have stimulated the development of procedures, but more often have "piggybacked" on prior developments. In one institution we visited, procedures for student grievance were established for the first time in the Title IX self-evaluation, though such procedures had existed previously for academic and nonacademic employees. In another case, student and nonacademic staff grievance procedures were issued in July 1976 and April 1976, respectively, a direct result of the Title IX compliance requirements, though faculty procedures had previously existed. The most frequent pattern we observed was that grievance procedures existed before the Title IX and Section 504 regulations were published, and were often amended to accommodate these new requirements of federal law; this second pattern was almost always the one observed for the more recent requirement of Section 504.

The primary distinction among these procedures for students, faculty, and staff has to do with the personnel involved in administering them. Faculty procedures, for instance, are normally part of the general processes of faculty governance, involving faculty members, academic department heads and deans, academic vice presidents, and presidents acting in their academic capacity. Student procedures, on the other hand, typically involve the office of student personnel services, and

[10] Section 86.8(b) of the Title IX regulations sets forth the grievance procedure requirement; similarly, Section 84.7(b) of the Section 504 regulations stipulates the grievance procedure requirement for handicapped people (see App. A).

procedures for nonacademic employees usually involve the institution's personnel department. Procedures for nonacademic staff are usually administered by personnel officials, or are provided for in collective bargaining contracts between the IHE and a labor union.

Most grievance procedures include two stages: an informal complaint process and a formal grievance procedure. Informal processes usually attempt to resolve problems at the level at which they arise, that is, between a student and an instructor, or between an employee and the immediate supervisor.[11] Formal grievance procedures almost always require the grievant to state his or her grievance in written form. These procedures are to be invoked when informal processes do not result in satisfactory resolution of a complaint. Formal grievance procedures generally include some or all of the following elements: a specified series of steps for submission of a grievance to a designated official of the institution, or to a designated committee or hearing board; an investigation by the institution of the facts and issues in dispute; a review and/or hearing of the evidence; a determination of the grievance; and one or several avenues of appeal.

These processes may involve third parties, including friends of the complainant, officials of the institution who are designated participants, or representatives of resource centers. In one institution, for instance, both a women's resource center and a handicapped students' center provided counsellors to individual complainants. In another institution, potential advisory services include the affirmative action office, the ombudsman, the office of student services, the faculty advisory committee, the committee on the status of women, and the handicapped students' service. In a third institution, the formal grievances for nonacademic employees are administered by an impartial manager to ensure procedural fairness.

Compliance coordinators have specified roles in some of the grievance procedures, but do not in others. A case of the former is the following four-step procedure in a large state university:

- The grievant complains to the compliance coordinator.
- The coordinator's office formulates the questions to be answered and the decision rules to be used in settling the complaint.
- The vice president with jurisdiction over the area in which the grievance was filed assembles the evidence and makes a decision.
- The university president upholds or reverses the decision of the vice president, receiving a recommendation on the matter from the compliance coordinator.

The coordinator, in this case, can have an important effect on the outcome of the procedure by formulating questions and decision criteria, and advising the president on the case. But the coordinator functions exclusively in a supporting staff role and has no direct line responsibility for deciding particular grievances. In another case, the compliance coordinator was the assistant chancellor for legal affairs. As a lawyer, he had been responsible for establishing the formal procedure. He had no formal involvement in the resolution of individual grievance cases unless the matter came to the attention of the chancellor. In that event, he acted as legal adviser to the chancellor, but not in any formal capacity as compliance coordinator.

[11] One so-called "informal" process required written complaints!

DISSEMINATION OF INFORMATION ABOUT THE MECHANISMS

In most IHEs, the only people who were well informed about the mechanisms were the members of the compliance coordinator's staff and some of those who had participated in the self-evaluations. Most people knew who the compliance coordinator was, though typically in relation to the coordinator's broader responsibilities for affirmative action and equal opportunity. Those providing advocacy or support services usually knew of the grievance procedure, though not always about details, but often exhibited a good understanding of people and processes—formal and informal—for pursuing complaints. Knowledge of institutional resources tended to be greater among both men and women handicapped students than among women students in general. There were usually far fewer handicapped students, they shared a greater sense of need, and they had closer ties to those providing services. In summary, knowledge of the particular mechanisms diminished as one moved away from formal responsibility for them and also as a function of when the mechanisms were established.

One inadvertent result of summer deadlines for the completion of the self-evaluations was that these reports were seldom well publicized. The self-evaluations were completed when campus activity was at its lowest, and most students and faculty members were on vacation. This relative paucity of information about results was often in marked contrast to the publicity received when self-evaluation task forces were established.

But the greatest amount of information about civil rights on a given campus, we observed, does not result from particular actions about the mechanisms under discussion. Rather, it results from the nature and seriousness of the IHE's commitment to civil rights, the clarity with which pertinent policies are stated, and the extent to which those policies have been incorporated in the day-to-day life of the institution.

USE OF THE MECHANISMS

The IHEs' use of the self-administered compliance mechanisms varies by mechanism. The coordinator exercises his or her day-to-day responsibilities on an intermittent basis as part of broader civil rights responsibilities. The self-evaluations normally generated recommendations for one-time-only policy changes (e.g., modifying official publications to eliminate discriminatory language or to state a nondiscriminatory policy) or for modest changes in practices. Grievance procedures, once established, were available when needed, but their actual use was infrequent.

One helpful perspective on use was provided by a lawyer in a state-wide university system. A former member of the state legislature, this lawyer saw that civil rights were guaranteed by establishing a position of responsibility, filling the position with someone more committed to the task than those at the top (if only for reasons of time and range of responsibilities), and creating regular procedures for use as needed. This "bureaucratic process" view, in fact, captures what we saw at most IHEs, with some notable exceptions. The remainder of this section discusses each of the mechanisms separately.

Compliance Coordinator

The behavior and performance of a compliance coordinator is strongly affected by the settling in which he or she operates. In colleges or universities, the coordinator is influenced by three groups: institutional administrators, "beneficiaries" and beneficiary representatives, and those controlling teaching and research.

Among institutional administrators, the university president is clearly the most important and the relationship between the president and the compliance coordinator is one of the key determinants of the latter's effectiveness. Access to the president by the coordinator ranged from good to excellent. It was usually direct, though in several cases it went through a university vice president, or chancellor, or provost. The purpose for which access was sought and granted, however, varied according to whether the president actively supported, passively supported, or passively opposed the mandate of the compliance coordinator. Access also varied according to the coordinator's specific need of the moment, e.g., attention to a general policy, a new program initiative, a pending visit by a government agency, or a particular problem.

In several situations, we found clear indications of strong presidential support for civil rights of women and minorities. In one, for instance, a new president, in the first year of office, had given several brief speeches stating the commitment of the institution to equity in women's issues. This institution was also recruiting a new equal opportunity director, who was to be a woman and an advocate who would replace a man who was an administration apologist.

In a second instance, an institution provided us with a tabloid-size, 12-page, printed "affirmative action plan" for the university, prepared "as an expression of commitment to the principle of equal opportunity in employment and in education and [which] is in accordance with all Federal government regulations affecting equal opportunities in higher educational facilities as of February 28, 1978." The introduction to this document stated an institutional commitment to more than nondiscrimination—to a policy of affirmative action:

> While the [university] is obligated, as a major Federal contractor, to develop and sustain a program of Affirmative Action, our commitment to these matters transcends legal or contractual requirements. We undertake these actions and adopt these policies not because we are required to, but because it is right and proper that we do so.

Where presidents have made clear public statements of policy, the effectiveness of compliance coordinators in fulfilling civil rights responsibilities is greatly enhanced. In most institutions, however, presidential support tends to be genuine but passive. In such situations, the effectiveness of the coordinator depends greatly upon his or her abilities to persuade others within the university to comply in policy and practice with federal statutes and regulations. Where a president opposes the coordinator's compliance/affirmative action/equal-opportunity mandate, the coordinator is unlikely to be effective in civil rights matters.

The compliance coordinator, as a staff aide to the president, is likely to have substantial day-to-day contact with other university administrators. The nature of that contact will be governed primarily by the other administrators' knowledge of the coordinator's relationship to the president, by their commitment to civil rights, by normal administrative procedures and routine, and by shared administrative

responsibilities. Shared responsibilities, for example, include such things as cooperation with the physical-plant/space-utilization unit in preparation of the transition plan and self-evaluation for Section 504.

The intended beneficiaries of federal law—women and the handicapped—and their organized representatives constitute the second group exerting influence over the compliance coordinator. Sometimes the coordinator has strong, direct, personal relations with beneficiaries. More frequently, the coordinator has strong relations with beneficiary representatives within the institution, for both Title IX and Section 504. Indeed, the coordinator and the organized representatives often share various civil rights responsibilities. We found no coordinator, for instance, with direct responsibility for the provision of support services, but often found a women's resource center or a center for handicapped students having such responsibility. In several cases, standing advisory committees existed, for both women and handicapped, that either reported to or included the coordinator as participant. Though the use and effectiveness of these committees varied considerably, the coordinator's effectiveness often hinged on the quality of the relations with beneficiaries or their organizational representatives.

The third influential group for the compliance coordinator consists of those responsible for the academic functions of teaching and research, namely, deans, department heads, laboratory directors, and faculty. Compliance coordinators are normally administrators, usually without academic appointments, having at best an arms-length relationship to academic personnel. If cooperation of academic personnel is required for compliance, the coordinator's effectiveness is likely to depend on the relative strength of administrators and academics in institutional governance.

The roles adopted by compliance coordinators derive mainly from balancing the claims of the institution—expressed by the president and other administrators—against those of the beneficiaries. The typology of roles used for LEAs in Chap. 2 is helpful here also: Coordinators functioned as advocates, administrators, or apologists. (All three kinds of coordinators express a commitment to the research and teaching function of the institution.) The difference among roles reflects the degree to which coordinators accepted responsibility for creating changes required by the civil rights guarantees.

Advocates clearly understood their job as being to advance the interests of women, minorities, and the handicapped as rapidly as possible. They were the most frequently encountered type, found in approximately one-half of all IHEs; two additional institutions appeared to be moving toward an advocate role for the compliance coordinator.

Administrators were committed to the efficient performance of their responsibilities. They were usually sympathetic to the interests of women, minorities, and the handicapped, but had a strong sense of responsibility not to disrupt or put uncomfortable burdens on the institution. They left advocacy to those with fewer or no institutional responsibilities.

Apologists engage in defensive behavior for an IHE that is reluctantly acceding to the formal compliance requirements of federal regulation. We encountered only one apologist, but the person was hardly blatant about it; others might have described the person as an administrator.

Compliance coordinators tend to have two different kinds of external relations. First are networks and formal organizations of affirmative action/equal opportu-

nity officers in higher education, with metropolitan, state-wide, and national membership. Participation in such networks by compliance coordinators fulfills several functions: sharing information, encouraging nascent professionalism, and providing emotional support.

The second external relationship is with the regional offices of the Office for Civil Rights of the Office of Federal Contract Compliance. Some coordinators have developed good working relationships, and their institutions benefit as a consequence. In such situations, coordinators gain the confidence of their presidents as a result of their performance, and also acquire resources that help them in their advocacy roles.

Self-Evaluation

The use of self-evaluations varied with the extent to which they generated data central to the on-going operation of the institution. The recommendations produced by self-evaluations were generally few in number, concrete, and modest in scope. This was especially true for Title IX reviews, for several reasons. First, they strongly focused on institutional policies, or official statements of institutional purpose, bases or criteria for decisionmaking, and guidelines for institutional behavior. Where self-evaluations revealed official policy statements that were not in compliance with the nondiscrimination purposes of the law, the required response was usually a one-time-only modification of language used in announcements, catalogs, admission forms, university brochures, and other publications. Such changes were fairly minor and easy to make; more central and controversial policy changes had been made before the 1976 self-evaluations. In several instances we encountered, previously single-sex honorary student organizations had changed their membership requirements to admit both sexes. Second, the scope of Title IX self-evaluations was often narrowed by the exclusion of employment from consideration, thus focusing the reviews on less central issues.

The Title IX athletics program self-evaluations typically produced detailed recommendations. This is attributable, as suggested above, to the questions asked institutions in the regulations, the inclusion of the women's athletic representative in the process, and the frequent revelation of rather glaring inequities. One university, for example, discovered that it had 500 lockers for 400 male athletes and only 100 lockers for 200 female athletes. Data like these lead in only one direction for recommendations.

The Section 504 recommendations focused on modification of old buildings to be physically accessible, and the accommodation within existing physical constraints to provide the maximum degree of program accessibility. Several institutions had programs of physical modification that predated the Section 504 regulations and were essentially moving on a steady course. Whether such a course brings them into compliance by 1980 remains to be seen. But the self-evaluation usually resulted in a physical inventory of accessible buildings, and a description of services for handicapped students. The inventory then triggered an estimation of the costs of making the campus completely accessible in physical terms, and the adoption of some capital budget plan for facility modification, or the submission of a budget request to the state-wide university in several instances, or the assumption of a wait-and-see posture regarding the meaning of the 1980 deadline.

The results of self-evaluations were typically a small number of modest changes in institutional policies and practices. This is due, as we have argued in the preceding paragraphs, to the scope and substance of the self-evaluations, to the exclusion of employment from the Title IX review, to the fact that the Title IX self-evaluations were done in 1976, long after women's and equity issues had been fought out on many campuses, and to a certain gingerly stepping around the capital budget implications of physical modification of facilities for 504. The exception, perhaps, is intercollegiate athletics, but it is impossible to disentangle the several causal factors operating on institutions in this area. We did find that physical education, recreation programs, club sports, and intramural sports were often over-looked in Title IX self-evaluations.

The self-evaluations had a general effect of raising the level of awareness of equity issues, for both women and for handicapped people. This is not an easily documented effect, and it clearly is not independent of the broader and deeper currents of social and institutional change affecting IHEs. Future self-evaluations could contribute substantially more to this general awareness if they were timed to conclude in the early spring and results were presented to an institution-wide meeting. But self-evaluations do reinforce general processes of institutional change and should be favorably viewed for this reason.

The effects of Title IX self-evaluations attenuated over time. They were conducted in the 1975-76 academic year, now one full student generation ago. The effects of Section 504 self-evaluations, however modest, have not attenuated as much, partly because of the forthcoming 1980 deadline for facility modification. This attentuation can be checked, perhaps, by a recurring self-evaluation requirement.

Grievance Procedures

From institution to institution, we consistently discovered that little or no use had been made of the formal grievance procedures.[12] This consistent pattern reflects strong preference for reliance upon informal processes for complaint resolution, with formal procedures in place for the rare cases in which they are needed.

In fact, there were more cases cited of individuals taking formal complaints to agencies external to the institution than there were of the use of the formal institutional procedures. Several individuals in one university had gone directly to the Office for Civil Rights. In another institution, four people had gone to the state civil rights agency. At another, a woman faculty member who was denied tenure took her case to court. Our data do not permit us to draw many definite conclusions about the processes involved here, but they suggest very substantial resistance to the use of formal institutional grievance procedures.

While many factors may discourage the use of formal procedures, an important one appears to be that the costs of using them are often high to all parties to a grievance. There may be threshold costs to a grievant in initiating an action, and there will be cumulative costs in pursuing one. If an institutional resolution of a

[12] In fact, the advisory services provided by a women's resource center and a handicapped students' resource center in one institution strongly recommended the use of informal processes to those they counselled. In this case, the advisory personnel did not wish to disrupt the cooperative relationships they had established with deans and others. They also did not wish to have their own agendas superseded by particular complaints.

grievance is unsatisfctory and an external agency becomes involved, justice may or may not be done to the grievant, but it is likely that the grievant will bear a fair portion of the financial and emotional costs of such intervention. In one case, we met an individual on loan to an IHE for a year from a federal compliance agency. In her prior job, she had routinely advised grievants coming to her not to initiate formal procedures; in her mind, the social ostracism, possible harassment, and uncertainty of satisfactory outcome seldom warranted formal action.

The costs of using formal procedures are also potentially high to institutions, which may have to expend substantial resources in handling a grievance and bear the intangible costs of turmoil and bad publicity. If a formal complaint leads to intervention by a federal agency, such as OCR, the case will become defined as the individual victim versus the institution. The president of the institution, the compliance coordinator, advocacy groups, and others within the institution feel forced to choose sides, with possible disruptive effects among these parties. The extent of disruption, of course, will relate to the nature, length, and intensity of the grievance. There appear to be, then, fairly strong pressures for relying upon informal complaint resolution processes. The institutions we visited attached little importance to the use of informal complaint processes, however, and generally were unable to provide data on how extensively they were used. But in one instance, they are used so extensively that they constitute a critical part of the institution's efforts to ensure nondiscriminatory treatment of students, faculty, and staff. It is estimated that 2,000 to 3,000 inquiries, concerns, and complaints have been brought to the IHE administrators of this process each year for the past six years. This situation is so exceptional that it is worth elaborating in some detail.

The grievance procedure in this institution is described in its *Policies and Procedures* as the general grievance procedure for non-unionized employees. It is also reprinted in the affirmative action policy statement as a "procedure for complaints of discrimination." The formally stated purpose of the procedure is that:

> All persons employed at . . . who believe that they have been treated unjustly for any reason, or that the . . . stated policy of non-discrimination has been violated should have access to a clear means of seeking redress.

Three steps are identified as means for seeking redress. First, grievants are strongly encouraged to discuss their problems "with their immediate supervisors." Supervisors, for their part, are "expected to provide a supportive environment which fosters open communication related to work life at . . . and are encouraged to resolve work problems and grievances at the departmental level." If no resolution occurs with the immediate supervisor, "individuals should feel free to discuss the problem with the next higher supervisor" as the second step. There is also an alternative chain of address via the Personnel Office structure, which can be used at any time. Finally, if the individual feels the problem is still unresolved, he or she may take it to one of the two special assistants to the president who are at the top of this process. In such cases,

> Either of [the special assistants] will discuss the apparent alternatives with the individual. The individual may then choose to request a formal inquiry into the facts of the case. The special assistants will attempt to resolve the matter to the satisfaction of all concerned, recommending a final decision to the president.

A number of characteristics of the process as it actually functions deserve comment. First it is available to all employees, academic and nonacademic, save those represented by a labor union (and thus covered by collective bargaining agreements that include grievance and arbitration procedures). It is also available to students "for the purpose of resolving complaints alleging actions prohibited by Title IX" and to students and employees "alleging failure to comply with Sections 503 and 504 of the Rehabilitation Act of 1973."

Second, discrimination is deliberately not defined; all problems are accepted. The printed words in the policy statement are "concern, grievance, or inquiry," "work situations and problems," "concerns, inquiries, and complaints," and people's belief that they "have been treated unjustly for any reason." Or, as one of the special assistants put it, "any sense of askewness" is an adequate basis for bringing a complaint to the system. This means that if a problem is ambiguously or only partially concerned with discrimination, it still can be handled in toto, which tends to help avoid backlash, to deal more effectively with complicated issues, and to support people not explicitly protected by equal opportunity (EO) laws.

Third, there is a "short circuit" mechanism in the procedure. "In most instances," the policy statement reads, "it is expected that individuals will take concerns, inquiries, and complaints through the process specified above. [But] there may be unusual circumstances which warrant direct inquiries with any of the above persons regarding advice about a work situation." Thus, an individual may go directly to the two special assistants if he or she has reason for doing so. The special assistants then make an effort to get people back to the first step of the process, if any action needs to be taken beyond simply improving matters with more informtion and advice—but with sensitivity to the reasons why the individual did not begin at the first step.

Fourth, there is a deliberate effort to reduce the threshold cost to the individual to make an inquiry. "The toughest philosophical issue in grievance procedures," in the view of one special assistant, "is that the victim bears the costs twice, once in the offense and then in making a complaint about the offense." Consequently, there is a conscious effort to maintain a system that limits the initial cost of inquiry to "the courage to walk in the door." Several mechanisms also exist to minimize the costs to the complainant once an inquiry has been made. Confidentiality is preserved for the complainant "as long as the individual wishes it or until the individual agrees that a third party or parties must be informed to facilitate action." Furthermore, the individual can bring a "co-worker or any other university associate" to aid in presenting a concern, and thus, it is hoped, reduce the emotional cost of bringing the inquiry. Also, the institution's affirmative action policy states that "individuals will not be reprimanded nor discriminated against in any way for initiating an inquiry or complaint."

Fifth, there is a deliberate redundancy in the system (Personnel plus the ordinary chain of command) so that people can more easily find someone they feel comfortable with.

Sixth, at the top of the system are the two special assistants to the president, one woman and one man, one white and one black. A person bringing a complaint may go to either of the two. Because these assistants have occupied their respective positions for five and six years, they provide a good deal of confidence in the integrity of the process.

Finally, unlike many other grievance procedures whose rationale is a legalistic view of procedures as a means for protecting individual rights, the rationale for this process is more subtle. A central point of the rationale is that the institution identifies its own interests with those of the victim, and has deliberately designed its procedures to avoid a conflict between individual and institution. In those cases when individuals decide that their interests require them to use formal processes outside the institution, those involved in the grievance procedure bow out of the case. Pervading the operation is a belief in pursuing justice through mediation that seeks common ground among all parties, and having high-level officials sensitive to the operation and maintenance of a mediation-oriented system.

Several characteristics of the institution are important to the functioning of this grievance system for EO purposes. For one thing, the two special assistants are involved with other officials in university-wide affirmative action and equal opportunity activities, including: (1) the development and coordination of affirmative action procedures and close cooperation with department heads on these matters; (2) the annual review of all employment categories for affirmative action progress of minorities and women; and (3) the regular biennial review of student affirmative action efforts. The special assistants are also identified as one of the main sources of information on equal opportunity within the institution, formally through published university materials and also through the informal channels and networks. They are central, therefore, to many activities that enhance their visibility and credibility as participants in the grievance procedure.

Perhaps most important are the roles played by the two principal officers of the institution: the president and chancellor. Each has had important prior experience with and commitment to equal opportunity for minorities. They have articulated a clear, public, and well-publicized policy on affirmative action for women and minorities. They have consistently provided strong support to efforts to implement these policies, including strong support to their special assistants. They understand and support the grievance procedure described above, and without their support the procedure very well might not function.

A third ingredient of importance is that the operational focus of policy implementation is at the departmental and managerial level. Each department, for instance, is required to develop affirmative action plans and establish programs consistent with university policy.

In practical terms, the key actors in an institution's response to civil rights are the president and chancellor devising, articulating, and supporting affirmative action policy, the department heads likewise developing and implementing university policy, and the special assistants cooperatively encouraging department heads with the support of the president and chancellor. When the system works, it is because these people constitute a stable, close-knit working group who operate within a collegial tradition of university governance.

Chapter 4

IMPLICATIONS

This chapter has two purposes. The first is to summarize evidence about the contribution that the four locally administered mechanisms can make to the effort to ensure compliance with the civil rights guarantees. We shall place the mechanisms in context, by assessing the degree to which the conditions necessary for them to work exist.

The chapter's second purpose is to suggest ways in which the four mechanisms can make greater contributions to local compliance. We present recommendations for changes in the regulations and official policies establishing the mechanisms, and for ways in which the federal government's efforts might be adjusted to complement and enhance the effectiveness of the mechanisms.

THE MECHANISMS IN CONTEXT

The four mechanisms are not the only, or even the primary, processes for locally initiated change in most institutions. They are formal manifestations of much broader processes. For example, many LEA department heads and IHE vice presidents conduct informal equity assessments of the activities they supervise, quite apart from the official district-wide self-evaluation. Faculty and students in IHE and LEA parent-teacher organizations, and teachers independently, take upon themselves to press for changes in local practice, quite apart from the actions of the designated compliance coordinator. Students in IHEs and parents in LEAs complain to educational officials about poor programs or inequitable treatment, quite apart from any formal grievance mechanism.

In the institutions we visited, the formal mechanisms are not creating revolutionary changes, but they do reinforce the existing local processes. From our fieldwork, it is clear that self-evaluation can provide an occasion for officials to learn about the practical implications of nondiscrimination, and can give civil rights supporters a specific opportunity to express their views. The compliance coordinator can be an additional point of access for students, faculty, and members of the community who want to press for changes. The grievance process can provide an additional source of pressure on officials to handle informal complaints seriously.

If such mechanisms are to have an important effect on institutional policy, three conditions must exist. There must be leadership from the heads of educational institutions. That leadership must be supplemented by pressure from both the federal government and interested parties within the institutions or in the communities served by them.. Finally, the institutions must have the managerial and financial resources necessary to change their policies and practices. The following brief sections discuss the three conditions in more detail.

Leadership

Local officials' exercise of leadership on behalf of civil rights clearly varies from place to place. The heads of most institutions believe that discrimination on the basis of handicap and sex has been common in the past, and that it should be eliminated. They vary, of course, in how they define discrimination and how much they are willing to spend to eliminate it. But we observed only one institution, an LEA, whose senior officials opposed the civil rights guarantees and were in favor of strictly maintaining the status quo. Most of the heads of institutions are willing to exert leadership on behalf of civil rights. They are unlikely to mount major efforts, however, unless the other two necessities—pressure and resources—are also available.

Pressure

At present, it is clear that federal pressure is also a real factor in institutional decisionmaking. Institutional officials assume that their practices will come under federal scrutiny, and they make serious efforts to avoid federal government intervention on matters of compliance. Given the very low incidence of punitive action by the federal government, its efforts to put local officials under pressure appear to be highly successful. However, federal pressure alone cannot produce full compliance with Title IX and Section 504; it will only lead local officials to prevent flagrant abuses and make changes in areas where federal officials are most likely to look. Full compliance requires more.

Pressure for creative solutions must come from within the institutions or from the communities they serve. Again, the degree to which this condition is met varies widely from place to place. Even conservative IHEs contain many supporters of the rights of women and the handicapped. Many department heads and vice presidents make changes on their own initiative. Though many would stop short of advocating changes that might disrupt their own professional lives, very few oppose, or are indifferent to, the rights of women and the handicapped.

On the whole, LEA employees are apparently less disposed to civil rights activism than are IHE faculty and administration. Though the big-city LEAs often have activist central office staff members, the general level of staff-initiated activity is much lower than in IHEs. The level of activity of interested parties is very low in many institutions, particularly in small LEAs located outside metropolitan areas. From our case studies, it is apparent that many such LEAs have no organized women's groups or sex-equity activists, and few, if any, assertive parents of handicapped children. In such districts, there are no sources of the pressure from interested parties that is required for creative response to civil rights.

Resources

Leadership and pressure cannot always overcome institutions' lack of resources. Officials of educational institutions have to translate the general prescriptions of the law into actions that fit the local context. They must change the habits of many of their employees, and overcome strong resistance in some cases. In all these things, they are constrained by limits on their time, management skill, and financial resources. Many institutions, especially the smaller LEAs, have very smal

administrative staffs that find it difficult to incorporate major new functions. In addition, all educational institutions face financial limitations, and many are now operating at the limit of their resources, under pressures from all sides for new spending.

Though some hold that civil rights guarantees are imperatives that must be met without reference to the availability of resources, in fact the institutions face competing claims on their resources from organized groups of all sorts, each of which can argue its case on ethical grounds if necessary. First among those claims, of course, is the general public expectation that the institutions will maintain the quality of their standard educational offerings. In that context, civil rights guarantees, especially ones like Title IX and Section 504 that impose requirements without providing new money, must compete with other priorities and with one another for the funds required to meet the costs of compliance.

The costs of compliance with Title IX and Section 504 vary, depending on each institution's existing programs and facilities. Exact costs are hard to estimate, but it is clear that the capital cost implications of Section 504 are very significant.[1] The costs of Title IX are probably less, but institutions must find or reallocate some money to respond to the athletics provisions.

In general, institutions differ in the degree to which they meet conditions required for the four mechanisms to promote compliance with civil rights guarantees. By themselves, the four mechanisms are unlikely to create fundamental changes in institutional policy. Without leadership, pressure, and resources, the mechanisms themselves are insignificant. But when those conditions are present in any degree, the mechanisms establish the basic administrative framework for changes in agency policy. Starting from that understanding of their function, the next section draws upon the results of our studies of LEAs and IHEs to suggest some ways in which the mechanisms can be improved.

RECOMMENDATIONS

The recommendations presented below have a common theme. It is that local action is the key to the implementation of the civil rights guarantees. Federal actions can stimulate and complement, but never replace, local change processes.

Federal enforcement has a place, principally as a threat that provides extra incentive for the leaders of educational institutions to take their responsibilities seriously. Even if federal expenditures for enforcement were increased many-fold, federal site reviewers and complaint investigators could become involved in only an infinitesimal fraction of the transactions in which minorities, women, and handicapped persons might suffer discrimination. Only local individuals and local institutions can devise and implement policies that achieve genuine fairness and equality for women and the handicapped. Our recommendations numbered 8, 12, 17, and 18 identify ways in which the federal government can adjust its enforcement efforts to complement local change processes.

We also recommend two ways in which the federal government can enhance local efforts. The first is by clarifying the regulations that mandate the four mechanisms. At present, the regulations do not provide complete guidance about the

[1] See Van Alstyne and Colden (1976) and Scott (1978).

purpose and operation of the four mechanisms. Our recommendations numbered 1-6, 9, 13, and 14 are intended to help sharpen those requirements.

The second way for the federal government to enhance local efforts is to alert the public to the opportunities for local accountability that the mechanisms provide. The public needs to be informed that the mechanisms exist, and urged to use them. The current practice of relying on educational institutions to inform the public is not realistic. The institutions have no incentive to increase public scrutiny of their actions and spend money to do so. Federally sponsored information campaigns, similar to the ones conducted by the Bureau of Education for the Handicapped, are promising ways of increasing public use of the mechanisms. Our recommendations numbered 7, 10, 11, 15, and 16 identify the topics on which such information campaigns are most needed.

The remainder of this section deals with each of the four mechanisms separately and suggests changes in the regulations to strengthen the mechanisms, ways of increasing use of the mechanisms by educational institutions and their publics, and ways of increasing the complementarity between the mechanisms and federal efforts on behalf of civil rights.

Assurance of Compliance

At present, the assurance of compliance contributes little to the local change process. It apparently imposes no substantive legal obligations on educational institutions, nor does it confer any additional enforcement leverage on the federal government. Obtaining the assurance protects the federal government from allegations that it gave grants to institutions known to be out of compliance with the civil rights laws. But the requirement that local officials certify full compliance with the laws even before they have conducted their self-evaluation may work against the effectiveness of other locally administered mechanisms.

The assurance of compliance could serve its purpose without requiring local officials to certify compliance before they have examined their own practices. That could be done by making the assurance of compliance a two-step process: first, a statement of intent to comply with any new civil rights regulation or policy interpretation, and second, a statement of actual compliance, to be made after the problems identified in the self-evaluation are corrected.

Change in Official Policies:

1. *When new civil rights requirements are established, require local institutions to certify their intent to comply, but do not require a definite statement about the institution's current state of compliance until the self-evaluation is complete.*

Self-Evaluation

We found that self-evaluation in several institutions was conducted by administrative staff, without much participation by interested parties in the institutions or the communities served by them. The following recommendations are intended to open up the self-evaluation process, and to ensure that it will produce a serious agenda for change in the institution.

Changes in Official Policies:

2. *Require occasional renewals of the self-evaluation.*

As civil rights requirements are refined or elaborated, special self-evaluations focused on the new provisions may stimulate the local change process. Comprehensive renewals of the self-evaluation may be desirable periodically, e.g., every three years.

Periodic renewal of the self-evaluation guarantees that the official report will reflect recent conditions; it also gives local civil rights beneficiaries or advocates a specific opportunity to hold the institution accountable for progress.

Self-evaluations conducted for Title IX are now three years old, and the results may no longer reflect conditions at the institutions. Turnover in compliance coordinators, other employees, and students means that many of the people who participated in the self-evaluation have left. In a year or two, the same will be true of the Section 504 self-evaluation.

Given the low quality of many existing LEA self-evaluation reports, a complete reexamination on Title IX is desirable. For Section 504 (and, in succeeding three-year periods, for Title IX), a review of progress toward goals set earlier is probably sufficient. In any case, the requirement for renewal of self-evaluation should be accompanied by clear guidance from HEW about purpose, scope, and timing.

3. *Require that the self-evaluation process culminate in a written summary report.*

Because the Title IX and Section 504 regulations do not expressly require a summary report, many institutions, particularly LEAs, conducted self-evaluation processes without products. They conducted surveys and conversations and kept voluminous records of the process in filing cabinets, but made no summary statement about the institution's problems. In those institutions, the self-evaluation process may have helped to inform and sensitize the participants, but it did not produce a clear agenda for action.

Summary reports do not, of course, guarantee that the institution will correct its compliance problems. Some institutions (most often IHEs) produced excellent reports that were read by only a few. But written summary reports were potential resources for people who wanted to demand changes or hold the institution accountable to its promises. In some instances, the reports became useful tools in the hands of compliance coordinators, beneficiary groups, or individual students and employees.

4. *Require that the report or a digest of it be published widely, so that all employees, students, and local interest groups receive a copy, and have it presented in at least one public meeting.*

Many institutions have treated self-evaluation as a purely administrative process whose results need be shared only among top officials. A requirement to publish the report and present it in a public meeting would permit it to be used in the ways noted in the preceding discussion.

Wide public awareness of the self-evaluation process is necessary for three reasons. First, it increases the probability that people who are aware of local compliance problems will make them known; second, it prevents local officials from

hiding the results; and third, it threatens public embarrassment for local officials who produce trivial or self-serving "whitewash" reports. The fear of public protest or derision will discourage officials from ignoring their most significant compliance problems; out of concern for their credibility, officials will probably acknowledge problems in at least those areas.

A published self-evaluation report would constitute the institution's agenda for compliance with the civil rights laws. No agenda is self-enforcing, but the self-evaluation report could guide the actions of administrators, provide legitimacy for students' and employees' demands for change, and provide definite grounds on which local people can hold the institution's leaders accountable. It would serve, in effect, as a far more realistic alternative to the existing assurance of compliance form.

5. *Require that the periodic Title IX self-evaluation be conducted with student, faculty, staff, and interest- group participation.*

The Section 504 regulations required such participation, but the Title IX regulations did not. As a direct result, Section 504 self-evaluation processes included more public participants and beneficiary representatives. This was especially evident in the LEAs, where public participation in self-evaluation was the exception for Title IX and the rule for the combination of Section 504 and P.L. 94-142.

Public participation did not guarantee that the self-evaluation process would be thorough or constructive; it may, in fact, have made officials less candid than they would have been in private. But public participation had two important indirect effects. First, it created at least a small group of concerned persons who understood the civil rights guarantees and knew something about problems in their own institution. Second, it provided an opportunity for people who were interested in civil rights to identify one another. This was crucial in all but the largest LEAs and IHEs; smaller institutions seldom had active civil rights advocacy groups, and the self-evaluation process was the first opportunity for interested individuals to form such groups.

6. *Establish deadlines for the self-evaluation process that are consistent with the school year. Early spring is an obvious time for the completion of an institution-wide self-evaluation.*

Deadlines for completing both the Title IX and Section 504 self-evaluations fell during the summer months. One result was that the crucial final stages of the self-evaluation process (including the drafting of reports) were completed by year-round employees of the institutions. Even in IHEs, where students were normally members of the self-evaluation committees, many of them were not present for its conclusion. Summer completion dates meant that the reports received little publicity and were typically read only by a few administrators. Students lost any sense of ownership of the results, and seldom used the self- evaluations as tools for monitoring progress or formulating demands.

Ways of Increasing the Use of Self-Evaluation.

7. *Provide clear and timely guidelines for LEAs and IHEs to use in conducting local self-evalutions.*

Most educational institutions were aware of the HEW requirement for local self-evaluations, but few knew how to conduct them. This was especially true for Title IX. Several guidebooks, many of which were of very high quality and could have facilitated the self-evaluation process, were developed as part of the HEW technical assistance program. Most were published too late, however, to be useful to most institutions attempting to meet the stated deadlines. Though the guidebooks were published with HEW funds, they were not official statements of government policy. Many local officials were therefore uncertain about whether these guides represented OCR's current position or simply the interpretation of the group publishing the guide.

If periodic self-evaluations are to be required, OCR should notify all LEAs and IHEs about the availability of guides to self-evaluation, make model self-evaluations available, and conduct workshops to discuss the self-evaluation process.

Making Federal Actions More Complementary with Local Self-Evaluation.

8. *Treat future self-evaluation reports as local accountability devices, not as tools for the federal government to use in assessing compliance.*

The federal government should encourage local institutions to conduct honest self-evaluations. Imposing sanctions or targeting site reviews on the basis of self-evaluation reports will discourage candid self-evaluations.

The example of environmental impact statements is instructive. As Bardach and Pugliaresi (1977) concluded, environmental impact statements—which are the functional equivalent of self-evaluation for environmental protection—generally do not contain conclusive data or sharp analysis because the results can be used against the initiating institution in court. They are vague and evasive—a form of public relations, not self-review. The same will be true of self-evaluations if they are used in federal enforcement processes.

The clear implication of this recommendation is that the federal government should give institutions a chance to correct any problems identified in the self-evaluation. If institutions propose timetables for eliminating problems uncovered by the self-evaluations, they should be immune from sanctions while changes are being implemented.

There must, of course, be some limit to such a grace period. An obvious time limit is three years—the recommended period between renewals of the self-evaluation. During that time, the federal government would not review local compliance in the affected areas. It could, however, review areas for which the self-evaluation report had concluded that no change was necessary. OCR would still be obligated to investigate individual complaints. The only grounds for resolving complaints in the plaintiff's favor would be that the grievance arose from the failure of the self-evaluation to address important problems, or from the institution's failure to make reasonable progress toward rectifying the problems identified.

Compliance Coordinator

Though the compliance coordinator is obviously a key actor in those institutions that made major responses to the civil rights laws, few of the desirable traits of compliance coordinators can be mandated by regulation. It is important that they

have the confidence of the president or superintendent, be concerned about civil rights, and be politically skillful. None of these things can be mandated by regulation. We can, however, recommend against a possible change in regulatory language that OCR has considered in the past.

Changes in the Regulations: Ways of Increasing the Usefulness of Compliance Coordinators.

9. *The federal government should assemble and publish a list of Title IX and Section 504 coordinators for every LEA and IHE.*

Such a list would facilitate interest-group contacts with compliance coordinators. It would also serve as a form of pressure on local institutions to appoint a coordinator.

10. *The federal government should help compliance coordinators understand their role by providing information and guidance and an opportunity to share experiences.*

Many of the coordinators we talked to had received information about what the law prohibits and allows, but they received little help in understanding the meaning of the compliance coordinator role itself. Some coordinators, especially those in smaller LEAs, were totally on their own. They had little support from their superiors, no reinforcement from outside, and no role models to follow. The contrast with compliance coordinators in the larger universitites is instructive. Many of them were professional civil rights careerists, and belonged to nationwide organizations (e.g., the American Association for Affirmative Action) that provided information and a sense of professionalism that transcended any particular institution. All of the "advocate" compliance coordinators we observed had such outside associations.

HEW should provide compliance coordinators with information and opportunities for contacts outside their own institutions. The ideal way would be to provide local coordinators with the same training, field manuals, and compliance review guidelines that OCR officials themselves receive. This would increase coordinators' claim to expertise and raise their professional studies in the eyes of both local and OCR officials. Workshops and casebooks (like the ones provided for local interest groups by McCune et al., 1976; 1977), are other, cheaper, ways of providing information. State, regional, and national meetings, such as the ones conducted by USOE for ESEA Title I local coordinators, are extremely effective ways of establishing professional networks.

Making Federal Actions More Complementary with the Actions of Compliance Coordinators.

11. *When conducting site visits, the federal government should consider the effects of its actions on the local compliance coordinator's long-term effectiveness.*

The most effective compliance coordinators we observed based much of their influence on the ability to provide accurate predictions of OCR's actions and to negotiate reasonable settlements over complaints or compliance reviews. Many also exercised sensitive judgment about when and how to push for change. Some of the most effective ones tried to build momentum for institutional change by

proposing low-conflict changes first, and working up to more controversial ones over time. They were not afraid to press agency officials for changes, but did not make demands that were impolitic or infeasible in their institution.

Federal complaint resolution and compliance review actions can reduce the effectiveness of such compliance coordinators. Coordinators in several institutions reported that OCR field personnel relied primarily on civil rights interest groups for information. OCR field personnel allegedly assumed that compliance coordinators were co-opted by the institutions' leadership and were not good sources of information. If OCR personnel contacted the coordinator at all, it was after the facts and issues in the case were firmly established in their minds.

That process destroys one basis for the compliance coordinator's influence within the institution: He or she can no longer claim to have any special expertise in dealing with OCR. The federal officials' negative assumptions about the compliance coordinator can thus become self-fulfilling prophecies.

If possible, federal actions should not weaken the local compliance coordinator's position. Federal officials who visit institutions should make the compliance coordinator their first contact, and cultivate a cooperative relationship. They should also take account of the coordinator's strategy, and consider the effects of preemptive federal action on it.

Grievance Procedures

The results of our study do not support any recommendations for changes in the regulatory language. Our two recommendations are *against* changes that might be contemplated.

12. *Do not require the local grievance process to be complex or formal.*

Formal grievance procedures are seldom used. The evidence from our case studies strongly suggests that these procedures function best as a sanction against mishandling of conflicts and complaints. People who think they have been treated inequitably, or the compliance coordinator, can force institutional officials to take informal complaints seriously by threatening to initiate a formal grievance process. The officials know that the process will consume their time and subject them to unwanted publicity. That is a strong incentive to settle the problem informally.

Existing institutional grievance procedures are simple to use compared with formal legal procedures outside the institution. The grievant need not find a lawyer, present a detailed brief, or abide by strict rules of evidence. In most grievance procedures, an agency official—frequently the compliance coordinator—is responsible for making necessary arrangements and assembling the relevant facts. Even so, institutional grievance procedures are seldom used.

Making such procedures more complex or formal by changing federal regulations would increase the threshold costs of using them and further reduce their already low use. This situation strongly suggests the need to develop alternative approaches, such as the ones discussed below under recommendation 15.

13. *Encourage institutions to adopt general grievance procedures that can be used for every civil rights law.*

Combining the grievance procedures for several laws makes it easy for a potential grievant to find the right process. This is similar to the argument raised above

about the compliance coordinator: Members of disadvantaged groups are usually aware that their rights are protected, but may not know the name of the appropriate law. Confusion over which is the appropriate process might deter them from raising a grievance; a general civil rights grievance process would simplify their choice.

Ways of Increasing the Use of Grievance Procedures.

14. *Publicize the existence of grievance procedures through channels other than those controlled by the educational institutions.*

Few of the potential users of a grievance procedure are aware that it exists, even though most institutions post notices about the procedure and describe it in annual reports and course catalogs. If the federal government wants to increase the awareness of grievance procedures, it probably needs to use channels of information other than those controlled by the institutions. These methods might include federally sponsored media campaigns, public meetings, workshops, and assistance to interest groups in informing their local chapters.

The content of the information is also important. People without a specific problem or complaint are unlikely to take much note of the existence of such a general resource unless its potential use is demonstrated. That can be done through illustrative cases and examples, especially if those examples reflect circumstances that people are likely to have experienced themselves. The examples provided in McCune et al. (1977) provide a good model for this type of publicity.

15. *Encourage educational institutions to develop and use low-barrier, mediation services as a supplement to formal grievance processes.*

The infrequent use of formal grievance procedures in educational institutions does not necessarily indicate the absence of legitimate complaints of discrimination. Rather, it suggests that people find the procedures too costly in time and emotional stress.

The federal government should encourage educational institutions to develop and use low-barrier, informal, mediation services as a supplement to formal grievance procedures. Effective mediation requires a low threshold of access to the system, an openness of the system to all individuals and all complaints, administration by skilled and sensitive individuals, numerous channels for complainants to voice their concerns, and a policy commitment to fairness from the institutional leadership.

Effective local mediation-oriented services cannot be mandated by regulatory fiat, since such services require great sensitivity to the particulars of each case. They can be encouraged, however, through research programs, demonstrations, identification of "best practice" institutions, and consideration of them at national education meetings.

Ways of Making Federal Activities Complement Local Grievance Procedures.

Federal handling of citizens' complaints can discourage local officials from taking their own grievance procedures seriously, and can prevent civil rights beneficiaries from developing habits of reliance on the local procedures. Our last two recommendations suggest ways of softening those two negative effects.

16. *Take notice of any local attempts to resolve a complaint before it was sent to the federal government.*

Many complaints that come to OCR have some history of formal or informal attempts at resolution at the local level. Compliance coordinators we interviewed alleged that OCR officials often take no account of the results of local efforts to resolve such disputes and spend their time in the institutions trying to buttress the complainants' cases. Local coordinators reported that OCR case officers sought their basic information from the complainant, other aggrieved individuals, and interest groups, and talked to the operators of the agency's grievance process late in the investigation, if at all.

Such practices—if, indeed, they occur as alleged—do nothing to reinforce the development of good local grievance processes. If local results are sure to be ignored or assumed invalid by federal reviewers, local officials may have little incentive to invest the time and money required for careful examination and mediation of grievances.

17. *Encourage local interest groups to use the local grievance procedures first, rather than make immediate appeals to state or federal government agencies.*

If local grievance procedures are to become major factors in the local response to civil rights requirements, they must be used by local interest groups. If grievants habitually bypass local processes in favor of direct appeals to federal or state governments or the courts, the local processes will lose their current value as sanctions against mishandling of informal complaints.

This reliance on external agencies is understandable, because disadvantaged groups often distrust the motives of institutional officials and assume that local processes will be biased in favor of the status quo. But the habit of relying on state or federal intervention can reduce incentives to build local civil rights coalitions and develop regular channels of access to local officials. The federal government can put institutions under legal obligation to establish the grievance procedures, but only local citizens can cause them to be used.

The federal government can promote the use of local processes by encouraging interest groups to try settling their grievances at the local level first, and, when complaints are lodged direcly with OCR, by urging complainants who are in no apparent danger of local retaliation to seek a local solution before a full-scale federal investigation is conducted.[2]

CONCLUSIONS

We offer the foregoing recommendations as ways of improving the four mechanisms. Judging from our fieldwork, we think these changes will make the mecha-

[2] The importance of using local processes was apparently recognized by the authors of the Section 504 regulations. In the Analysis of Final Regulations for Section 504 they wrote, "The regulation does not require that [local] grievance procedures be exhausted before recourse is sought from the Department. However, the Secretary believes that it is desirable and efficient in many cases for complainants to seek resolution of their complaints and disputes at the local level and therefore encourages them to use local grievance procedures." 45 CFR Part 84, App. A, at 379 (1977).

nisms more effective in encouraging and lending structure to the processes of change within educational institutions. As we have tried to make clear, however, the potential effectiveness of the mechanisms is limited no matter how well they are designed. Full implementation of the civil rights guarantees ultimately depends on the voluntary actions of individual officials, employees, students, and citizens of the educational institutions and the communities they serve.

Our research confirms that establishing the four mechanisms was a constructive action for the federal government to take. It is clear that the locally administered mechanisms have a place in any effort to ensure faithful implementation of the civil rights laws. Federal compliance reviews and complaint resolution are not always the most effective ways to promote social change. Less directive methods, including the locally administered mechanisms and federal technical assistance to institutions, can make important contributions. This one study does not equip us to prescribe the exact mixture of compliance reviews, complaint resolution, technical assistance, and locally administered mechanisms that will be most effective in promoting civil rights guarantees. Developing the proper mixture of those four tools is the most important task that faces federal civil rights officials.

Appendix A

RESULTS OF ANALYSIS OF SELF-EVALUATION AND GRIEVANCE PROCEDURE DOCUMENTS

Self-evaluation (Title IX only)

Used questionnaire process only . . . . . 51% (n=37)
Produced written report . . . . . 76% (n=37)
  Report identified no compliance problems . . . . . 54% (n=28)
  Report acknowledged specific compliance problem . . . . . 32% (n=28)
  Report included concrete plans for remedying problems . . . . . 16% (n=28)

Grievance procedures

One procedure established for both Title IX and Section 504 . . . . . 25% (n=37)
One procedure for both students and employees . . . . . 46% (n=37)
Number of steps in the procedure:

3 . . . . 38%
4 . . . . 54%
5 . . . . 4%
6 . . . . 4%

Time limits for completion of total process

Range: 19-115 days
Median: 55 days

Compliance coordinator's role mentioned in the written procedure . . . . 44% (n=37)

Appendix B

TITLE IX SELF-EVALUATION FORM FOR ELEMENTARY SCHOOLS

TITLE IX

SELF-EVALUATION FOR ELEMENTARY SCHOOLS

School_____ Grades _____ Date _____

Report submitted by_____

1. Are pupils separated by sex for any instructional activity or program? Yes____No____ If "yes," please explain.

2. Is there a disproportionate number of members of one sex in any class which has resulted from discriminatory practice? Yes____No_____

3. Are pupils separated by sex for any physical education activity except when participating in contact sports? Yes____No____ If "yes," please explain.

4. Has the school taken steps to comply with physical education regulations within one year? Yes____No_____

5. Are all school activities available to students without regard to sex? Yes____No____ If "no," please explain.

6. Are there different standards of behavior for one sex? Yes____No_____

7. Is the grading system such that it would have an adverse effect on members of one sex? Yes____No_____

8. Are faculty members assigned to duties by sex? Yes_____ No____ If "yes," please explain.

1976/77 TITLE IX SELF-EVALUATION[a]

General Area: Educational Programs, Student Activities
Specific Area: Educational Programs and Activities

Person Responsible for Self-Evaluation:

Indicators	Self-Evaluation	Recommended Modifications
Subpart A—Introduction 86.9—Dissemination of Policy The school has adopted a policy of compliance with Title IX. Subpart B—Coverage 86.33—Comparable Facilities (a) Physical Education and Athletic facilities such as locker rooms and shower facilities may be separate but comparable for students of each sex. 86.34—Access to Course Offerings (a) No student may be refused the opportunity to participate in a course or program on the basis of sex. (b) This section does not prohibit grouping of students in Physical Education classes and activities by ability or separation by sex in Physical Education classes during participation in such activities as wrestling, boxing, rugby, football, basketball, and other sports in which bodily contact is involved. (c) Chorus activities may separate by sex only for establishment of criteria based on vocal range.		

[a]This is a condensed version of the original forms, but is otherwise unchanged.

1976/77 TITLE IX SELF-EVALUATION

General Area: Educational Programs, Student Activities

Specific Area: Educational Programs and Activities

Person Responsible for Self-Evaluation:

Indicators	Self-Evaluation	Recommended Modifications
86.36—Counseling and Use of Appraisal and Counseling Materials (a) All students should receive counseling information or guidance without regard for the sex of the student. (b) Testing and other appraisal materials should be administered and interpreted on a non-sex-discriminatory basis. 86.37—Financial Assistance (a) A school district may not approve the awarding of scholarships or other financial assistance by a trust, organization or person in a manner which discriminates on the basis of sex. 86.41—Athletics (a) No student on the basis of sex be excluded from participation in interscholastic, club or intramural athletics offered by the school district. Separate teams may be operated where selection for such teams is based upon competitive skill or the activity involved is a contact sport. Contact sports include wrestling, football, basketball, and other sports, the purpose or major activity of which involves bodily contact.		

1976/77 TITLE IX SELF-EVALUATION

General Area: Educational Programs, Student Activities
Specific Area: Educational Programs and Activities

Person Responsible for Self-Evaluation

Indicators	Self-Evaluation	Recommended Modifications
86.41—continued (b) The school district must provide equal athletic opportunity for members of both sexes. This equal opportunity requirement covers the provision of equipment and supplies, practice time, assignment and compensation of coaches, facilities and other services in addition, providing sports activities which meet the interests and abilities of both sexes. Unequal expenditures for male and female teams do not necessarily constitute noncompliance with Title IX.		

Appendix C

TITLE IX GRIEVANCE PROCEDURE AND PROCEDURE FOR RESOLVING DISCRIMINATION COMPLAINTS

TITLE IX GRIEVANCE PROCEDURE

In compliance with Title IX of the Educational Amendment of 1972, _____ County Schools do not discriminate against anyone on the basis of sex.

Any student or employee who feels they have been discriminated against because of sex and wishes to file a complaint should use the procedure outlined below:

Step 1: If the grievance is from within a school the principal will be the first contact person to attempt to resolve the issue. If it is in an area other than a school, the immediate supervisor would be the first contact person.

Step 2: If the grievance cannot be resolved at the local school level, then the individual should contact the Superintendent or his designee (Title IX Coordinator).

Step 3: The individual may appeal to the _____ Board of Education if the grievance is still unresolved.

Step 4: The complainant may make a final appeal to the Office of Civil Rights, Department of Health, Education, and Welfare to resolve the grievance.

TITLE IX GRIEVANCE PROCEDURE

1. All complaints must be submitted in writing to the Title IX Coordinator within sixty (60) days.
2. Within five (5) days the Coordinator will notify the Principal.
3. The Principal will respond within five (5) days.
4. If grievant is not satisfied, may appeal to the Superintendent within ten (10) days.
5. A hearing will be granted within five (5) days.
6. Appeal may be carried to the Board of Education within ten (10) days.

PROCEDURE FOR RESOLVING DISCRIMINATION COMPLAINTS

PURPOSE

The purpose of this procedure is to establish a method by which the school district and the complainant can achieve equitable solutions to disputes which arise because of alleged discrimination in the areas of race, national origin, religion, age, sex or handicapping condition.

ELIGIBILITY

Any employee, applicant, or student of School District No. who feels that he/she has been discriminated against by the district is eligible to file a complaint.

GENERAL INFORMATION

1. The complaint procedure shall be as informal as possible; the resolution of the complaint shall be kept confidential.
2. The parties agree to make a sincere effort to work toward constructive solutions in order that good morale is maintained.
3. Neither the complainant nor the district shall in any way harass, intimidate, or otherwise take reprisals against any person participating in the process of a complaint.
4. In order for the procedure and resolution to be timely, it is important that the filing of the Level I complaint be done within 15 work-days of the alleged discrimination. Failure to adhere to the filing of the complaint within 15 days of the alleged discrimination may be grounds for invalidating the complaint. However, any complaint procedure timelines may be waived by the Associate Superintendent of Administrative Services if just cause is given by either the complainant or the district. The decision of the Associate Superintendent for Administrative Services regarding a waiver shall be final and binding and not subject for review through the Complaint Procedure.
5. A complaint, whether oral or written, must be in sufficient detail to permit the district an opportunity to respond. Furthermore, if an oral complaint is delivered, the complainant must declare that he/she wishes the complaint to be considered at Level I.
6. Complaints shall be investigated in a timely manner by the district.
7. The complainant and the district may be represented by persons of their choosing during meetings held at any level of this procedure.
8. Failure of a complainant to file through this discrimination procedure does not prohibit access to due process through the Office for Civil Rights or through a court of civil law.

HOW TO FILE

LEVEL I The complainant shall first discuss the matter personally with the Executive Director of Staff Relations and the Director of Affirmative Action within fifteen (15) workdays (any day the offices of the central administration building are open for business) of the alleged discrimination. Relevant information shall be discussed in an effort to resolve the complaint.

LEVEL II If the complaint is not resolved orally at Level I, the complainant must complete a Discrimination Complaint Form (Form A), and submit same to the Executive Director of Staff Relations or the Director of Affirmative Action. Form A must be submitted within three (3) workdays of the Level I meeting at which the district proposed a final resolution to the complainant and shall constitute the Level II appeal. Written decision by the Executive Director of Staff Relations and the Director of Affirmative Action shall be given within five (5) workdays from the day Form A is submitted.

LEVEL III If the complaint is not satisfactorily resolved at Level II, the complainant may appeal the matter in writing to the Associate Superintendent of Administrative Services within three (3) workdays from the date the Level II written decision was rendered. The Associate Superintendent of Administrative Services shall give written notice of the final decision within five (5) workdays after receiving the written Level III appeal request.

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